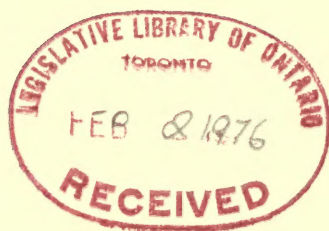


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Bills





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LEGISLATIVE ASSEMBLY OF ONTARIO

FIFTH SESSION OF THE TWENTY-NINTH
PARLIAMENT

BILLS

AS INTRODUCED IN THE HOUSE

TOGETHER WITH

REPRINTS AND THIRD READINGS

136788

SESSION

MARCH 11th, 1975 to JULY 18th, 1975

ASSEMBLY DISSOLVED 11th AUGUST, 1975

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5TH SESSION, 29TH LEGISLATURE, ONTARIO
24 ELIZABETH II, 1975

An Act to amend The Corporations Tax Act, 1972

THE HON. A. K. MEEN
Minister of Revenue

TORONTO

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EXPLANATORY NOTES

SECTION 1. This section amends a number of the definitions in subsection 1 of section 1 of the Act.

Subsection 1. Amends the definition of "bank" in paragraph 6 of section 1 (1) of the Act to make it clear that the expression "bank" includes only banks to which the *Bank Act* (Canada) or the *Quebec Savings Banks Act* (Canada) apply.

Subsection 2. A definition of "Canadian Resource Property" is added to section 1 of the Act so that the definition in section 63 of this expression will apply to this expression where it occurs elsewhere in the Act.

Subsection 3. A definition of "credit union" is added to section 1 of the Act so that the definition in section 114 of this expression will apply to this expression where it occurs elsewhere in the Act.

Subsection 4. A definition of "foreign affiliate" is added to make the definition of that expression in the *Income Tax Act* (Canada) apply to *The Corporations Tax Act*; and a definition of "international traffic" is added to clarify the meaning of that expression which appears in section 75 (1) (c) of the Act.

An Act to amend The Corporations Tax Act, 1972

HER MAJESTY, by and with the advice and consent of the Legislative Assembly of the Province of Ontario, enacts as follows:

- 1.—(1) Paragraph 6 of subsection 1 of section 1 of *The Corporations Tax Act, 1972*, being chapter 143, is repealed and the following substituted therefor: s. 1 (1), par. 6,
re-enacted

6. "bank" means a bank to which the *Bank Act* (Canada) R.S.C. 1970,
c. B-1
or the *Quebec Savings Banks Act* (Canada) applies. R.S.C. 1970,
c. B-4

- (2) Subsection 1 of the said section 1, as amended by the Statutes of Ontario, 1973, chapter 157, section 1, and 1974, chapter 75, section 1, is further amended by adding thereto the following paragraph: s. 1 (1),
amended

9a. "Canadian resource property" has the meaning given to that expression by section 63.

- (3) Subsection 1 of the said section 1 is further amended by adding thereto the following paragraph: s. 1 (1),
amended

17a. "credit union" has the meaning given to that expression by subsection 5 of section 114.

- (4) Subsection 1 of the said section 1 is further amended by adding thereto the following paragraphs: s. 1 (1),
amended

33a. "foreign affiliate", at any time, of a corporation has the meaning given to that expression under paragraph d of subsection 1 of section 95 of the *Income Tax Act* (Canada); 1970-71,
c. 63 (Can.)

.

38a. "international traffic" means in respect of a non-resident corporation carrying on the business of

transporting passengers or goods, any voyage made in the course of that business where the principal purpose of the voyage is to transport passengers or goods,

i. from Canada to a place outside Canada,

ii. from a place outside Canada to Canada, or

iii. from a place outside Canada to another place outside Canada.

s. 1(1),
amended

- (5) Subsection 1 of the said section 1 is further amended by adding thereto the following paragraph:

50a. "paid-up capital" has the meaning given to that expression by subsection 1 of section 83 but such meaning does not apply for the purposes of section 106a or Part III of this Act.

s. 1(1),
par. 66,
re-enacted

- (6) Paragraph 66 of subsection 1 of the said section 1 is repealed and the following substituted therefor:

66. "resident in Canada" means "resident in Canada" as that term is defined in the *Income Tax Act* (Canada).

1970-71,
c. 63 (Can.)

s. 1(1),
par. 68,
re-enacted

- (7) Paragraph 68 of subsection 1 of the said section 1 is repealed and the following substituted therefor:

68. "share" means a share or fraction thereof of the capital stock of a corporation.

s. 1(1),
par. 76,
re-enacted

- (8) Paragraph 76 of subsection 1 of the said section 1 is repealed and the following substituted therefor:

76. "taxable Canadian property" has the meaning given to that expression by subsection 1 of section 115 of the *Income Tax Act* (Canada) except that, for the purposes of section 2 the expression "taxable Canadian property" includes,

i. a Canadian resource property, within the meaning given to that expression by subsection 12 of section 63, or any property that would have been a Canadian resource property, within the meaning given to that expression by subsection 12 of section 63, if it had been acquired after 1971,

ii. a timber resource property,

Subsection 5. A definition of "paid-up capital" is added to make it clear that the definition in section 83 of this expression applies where this expression occurs elsewhere in the Act, other than in section 106a or Part III of the Act.

Subsection 6. "resident in Canada" is redefined to make it clear that the definition of this expression in the *Income Tax Act* (Canada) is applicable to *The Corporations Tax Act* and that this definition will not, in its application to *The Corporations Tax Act*, be affected by any tax treaties that Canada has with other countries.

Subsection 7. The expression "share" is redefined to make it clear that "share" includes a fraction of a share.

Subsection 8. "taxable Canadian property" is redefined to include a timber resource property.

Subsection 9. In addition a definition of "timber royalty" is added to define that expression which occurs in section 2 of the Act as amended by this Bill.

SECTION 2. This section amends section 2 of the Act to make the provisions of that subsection applicable to non-resident corporations that own timber resource property in Ontario or receive royalties from property in Ontario.

SECTION 3. Section 3 of the Act is amended to include a reference to "timber resource property"—this amendment is complementary to the amendments to section 2 of the Act.

iii. an income interest in a trust resident in Canada, and

iv. a right to a share of income or loss under an agreement referred to in clause *a* of subsection 1*a* of section 85.

(9) Subsection 1 of the said section 1 is further amended by adding thereto the following paragraphs: s. 1 (1),
amended

83*a*. "timber resource property" has the meaning given to that expression by clause *da* of subsection 17 of section 17;

83*b*. "timber royalty" includes any consideration for a right under or pursuant to which a right to cut or take timber from a timber limit in Canada is obtained or derived, to the extent that such consideration is dependent upon, or computed by reference to, the amount of timber cut or taken.

2.—(1) Clause *b* of subsection 2 of section 2 of the said Act is repealed and the following substituted therefor: s. 2 (2) (b),
re-enacted

(*b*) owned real property, timber resource property or a timber limit in Ontario the income from which arose from the sale or rental thereof or is a royalty or timber royalty; or

.

(2) Clause *b* of subsection 3 of the said section 2 is repealed and the following substituted therefor: s. 2 (3) (b),
re-enacted

(*b*) owned real property, timber resource property or a timber limit in Ontario the income from which arose from the sale or rental thereof or is a royalty or a timber royalty and the corporation has elected to file a return of income under Part I of the *Income Tax Act* (Canada) pursuant to section 216 of that Act; or 1970-71,
c. 63 (Can.)

.

3. Section 3 of the said Act is repealed and the following substituted therefor: s. 3,
re-enacted

3. For the purposes of subsection 2 or 3 of section 2, a corporation "owned real property, timber resource property or a timber limit" if it had a legal, equitable or beneficial interest in the real property, timber resource property or timber limit. Interpre-
tation

s. 16 (1) (b),
re-enacted

- 4.—(1) Clause *b* of subsection 1 of section 16 of the said Act is repealed and the following substituted therefor:

Amounts
receivable
in respect
of services,
etc.,
rendered

- (b) any amount receivable by the corporation in respect of property sold or services rendered in the course of a business in the year, notwithstanding that the amount or any part thereof is not due until a subsequent year, unless the method adopted by the corporation for computing income from the business and accepted for the purpose of this Part does not require it to include any amount receivable in computing its income for a fiscal year unless it has been received in the year.

s. 16 (1),
amended

- (2) Subsection 1 of the said section 16, as amended by the Statutes of Ontario, 1973, chapter 157, section 2, is further amended by striking out "and" at the end of clause *m*, by adding "and" at the end of clause *n* and by adding thereto the following clause:

Royalties,
etc., to be
included in
income

- (o) any amount (other than an amount, referred to in clause *n* of subsection 1 of section 22, paid or payable by the corporation) receivable in the year or the fair market value of any property receivable (other than an amount of property receivable by Her Majesty in right of Canada for the use and benefit of a band or bands as defined in the *Indian Act* (Canada)) in the year by,

(i) Her Majesty in right of Canada or a province,

(ii) an agent of Her Majesty in right of Canada or a province, or

(iii) a corporation, commission or association that is controlled, directly or indirectly in any manner whatever, by Her Majesty in right of Canada or a province or by an agent of Her Majesty in right of Canada or a province,

as a royalty or an equivalent amount, tax (other than a tax or portion thereof that may reasonably be considered to be a municipal or school tax levied for the purpose of providing services in the immediate area of the property of the corporation), rental, bonus, levy or otherwise or as an amount, however described, that may reasonably be regarded as being in lieu of a royalty or an equivalent amount, tax, rental, bonus, levy or other amount whether such royalty or equivalent amount, tax, rental,

R.S.C. 1970,
c. I-6

SECTION 4.—Subsection 1. Amends clause *b* of subsection 1 of section 16 of the Act to make it clear that amounts that become *receivable* in the year are to be included in income even though the payment of such amounts may not be *due* until a subsequent year.

Subsection 2. Clause *o* is added to subsection 1 of section 16 of the Act to require inclusion in income of a corporation of amounts receivable in the year by the Crown from the corporation as a royalty or equivalent amount in respect of an oil, gas or mineral resource.

Subsections 3 and 4. Subsections 3 and 4 are added to section 16 of the Act to require financial institutions to include in income their interest income on the accrual basis; previously these corporations had the option of including interest income when received rather than when accrued—this option is removed and interest income must be included in the year receivable.

SECTION 5. This section adds a new section 16*a* to the Act to allow a corporation to report a cash bonus received on Canada Savings Bonds either as interest income or as a capital gain.

bonus, levy or other amount is receivable pursuant to any other Act or a contract, that may reasonably be regarded as being in relation to,

(iv) the acquisition, development or ownership of a Canadian resource property or a property that would have been a Canadian resource property if it had been acquired after 1971, or

(v) the production in Canada of,

(A) petroleum, natural gas or related hydrocarbons, or

(B) metal or industrial minerals to any stage that is not beyond the prime metal stage or its equivalent,

from an oil or gas well or mineral resource situated on property in Canada from which the corporation had, at the time of such production, a right to take or remove petroleum, natural gas or related hydrocarbons or a right to take or remove metal or industrial minerals.

(3) The said section 16 is amended by adding thereto the following subsections: s. 16,
amended

(3) Notwithstanding clause c of subsection 1 where the corporation is a bank, a credit union, a life insurance corporation, a trust company or any other corporation, other than a mutual fund corporation or a mortgage investment corporation, that borrows money from the public in the course of carrying on a business the principal purpose of which is the making of loans or whose principal business is the making of loans, there shall be included in computing its income from the business for a fiscal year interest accrued in respect of the year and interest receivable in the year to the extent that such interest was not included in computing the corporation's income for a previous fiscal year. Accrued
interest of
financial
corporations

(4) For the purposes of subsection 3, "trust company" means a corporation licensed or otherwise authorized under the laws of Canada or a province to carry on in Canada the business of offering to the public its services as trustee. Interpre-
tation

5. The said Act is amended by adding thereto the following section: s. 16a,
enacted

16a. Notwithstanding any other provision of this Act, where in a fiscal year a corporation receives any amount from Cash bonus
on Canada
Savings Bond

the Government of Canada in respect of a Canada Savings Bond as a cash bonus that the Government of Canada has undertaken to pay, other than any amount of interest, bonus or principal agreed at the time of the issue of the bond to be paid under the terms of the bond, the corporation shall, in computing its income for the year, include,

(a) the amount, or such portion thereof, if any, as the corporation may report as interest; and

(b) an amount equal to one-half of the amount, if any, by which,

(i) the amount received as a cash bonus,

exceeds

(ii) the portion of the amount reported as interest under clause *a*,

as a taxable capital gain for the year from the disposition of a property.

s. 17,
amended

6.—(1) Section 17 of the said Act, as amended by the Statutes of Ontario, 1973, chapter 42, section 3, is further amended by adding thereto the following subsection:

Idem

(1*a*) Notwithstanding subsection 1, where in a fiscal year a timber resource property of a corporation has been disposed of, there shall be included in computing its income for the year the amount, if any, by which,

(a) the proceeds of disposition thereof,

exceeds

(b) the undepreciated capital cost to it, immediately before the disposition, of depreciable property of a prescribed class in which the timber resource property was included.

s. 17 (2),
amended

(2) Subsection 2 of the said section 17 is amended:

(a) by striking out "subsection 1" in the first, ninth, nineteenth, twenty-seventh and thirty-eighth lines, and inserting in lieu thereof in each instance "subsection 1 or 1*a*"; and

(b) by striking out "subsection 1" in the sixth line and inserting in lieu thereof "subsections 1 and 1*a*".

SECTION 6.—Subsection 1. Amends section 17 of the Act by adding thereto a new subsection 1*a* to provide the rules on the disposition of timber resource property—the entire amount by which the proceeds of disposition exceed the undepreciated balance at the time of the disposition is to be included in income.

Subsection 2. Complementary to subsection 1; references to subsection 1*a* are added to subsection 2 of section 17 of the Act.

Subsection 3. Subsection 3 of section 17 of the Act is amended to extend the period during which the capital property of a corporation that has been expropriated, lost or destroyed must be replaced if the corporation is to obtain a deferral of recapture of capital cost allowance.

- (3) Subsection 3 of the said section 17 is repealed and the following substituted therefor: s. 17 (3),
re-enacted

(3) Where an amount that would otherwise be included in computing the income of a corporation for a fiscal year, hereinafter referred to as the "initial year", by virtue of this section is, Insurance
and com-
pensation
proceeds

- (a) an amount receivable in respect of loss or destruction of property of a prescribed class,
 - (i) under a policy of insurance, or
 - (ii) otherwise as compensation for the property so lost or destroyed; or
- (b) an amount receivable as compensation for property of a prescribed class taken under statutory authority or as the sale price of property sold to a person by whom notice of an intention to take it under statutory authority was given,

the following rule applies,

- (c) the amount shall, to the extent that it has been used by a corporation,
 - (i) before the end of the time certified by the Minister to be reasonable time following the initial year, if the property so lost, destroyed, taken or sold was a vessel, or
 - (ii) before the end of the second fiscal year following the initial year if the property is not property referred to in subclause i,

to acquire, as a replacement for the property referred to in clause *a* or *b*, a property, in this section referred to as "replacement property", of a prescribed class that has not been disposed of by the corporation before the time the property referred to in clause *a* or *b* was disposed of,

- (iii) subject to subclause iv, not be included in computing the income of the corporation for the initial year, and
- (iv) be deemed to be proceeds of disposition of a depreciable property of the corporation, that had a capital cost equal to the amount of those

proceeds and that was property of the same class as the replacement property, from a disposition made on the later of,

- (A) the time the replacement property was acquired, or
- (B) the time immediately after the time the property referred to in clause *a* or *b* was disposed of.

s. 17 (6), par. 5,
re-enacted

(4) Paragraph 5 of subsection 6 of the said section 17 is repealed and the following substituted therefor:

5. Where a corporation has received or is entitled to receive a grant, subsidy, forgivable loan, investment allowance or other assistance from a government, municipality or other public authority in respect of or for the acquisition of property, other than an amount,

- i. authorized to be paid under an *Appropriation Act* (Canada) and on terms and conditions approved by the Minister in respect of scientific research expenditures incurred for the purpose of advancing and sustaining the technological capability of Canadian manufacturing or other industry, or
- ii. authorized to be paid under the *Industrial Research and Development Incentives Act* (Canada) or the *Area Development Incentives Act* (Canada) and approved by the Minister,

R.S.C. 1970,
c. I-10

1965,
c. 12 (Can.)

the capital cost of the property to the corporation shall be deemed to be the amount by which the aggregate of,

- iii. the capital cost thereof to the corporation, otherwise determined, and
- iv. such part, if any, of the assistance as has been repaid by the corporation pursuant to an obligation to repay all or any part of that assistance,

exceeds

- v. the amount of the assistance.

s. 17 (6),
amended

(5) Subsection 6 of the said section 17 is amended by adding thereto the following paragraph:

Subsection 4. Paragraph 5 of subsection 6 of section 17 is amended to expand the present provisions so that the capital cost of property must be reduced not only by the amount of any grant, subsidy or other governmental assistance, but also by the amount of any forgivable loans or investment allowances received from any government.

Subsection 5. Subsection 6 of section 17 of the Act is amended by adding a new paragraph 6 to provide the rules that will apply in determining the undepreciated capital cost of property purchased to replace depreciable property that has been expropriated, lost or destroyed.

Subsections 6, 7, 8 and 9. Subsections 11, 14, 15 and 16 of section 17 of the Act are amended to extend to July 1st, 1975 the period during which a corporation must use the proceeds of disposition of certain commercial vessels to replace the vessels, if the corporation is to obtain deferral of the recapture of capital cost allowance.

Subsection 10. Subsection 17 of section 17 is amended by adding thereto clause *da* to define "timber resource property", to which, as a result of other amendments in this Bill, special rules apply.

6. Notwithstanding clause *f* of subsection 17,

- i. the undepreciated capital cost referred to in subclause ii of clause *c* of subsection 1 of section 46 shall be determined after giving effect to the disposition of the former property referred to in subsection 1 of section 46, and
- ii. the undepreciated capital cost, immediately before the time determined under sub-subclause B of subclause iv of clause *c* of subsection 3, of the class of property to which the replacement property referred to in clause *c* of subsection 3 belongs shall be determined after giving effect to,

- (A) the disposition of the former property referred to in subsection 1 of section 46, and
- (B) the reduction, referred to in clause *b* of subsection 1 of section 46, in the capital cost of that replacement property.

- (6) Clause *a* of subsection 11 of the said section 17 is amended <sup>s. 17 (11) (a),
amended</sup> by inserting after "before" in the fifth line "May" and by striking out "1974" in the twenty-eighth line and inserting in lieu thereof "1975".
- (7) Subsection 14 of the said section 17 is amended by <sup>s. 17 (14),
amended</sup> striking out "expended" in the third line and inserting in lieu thereof "used", by striking out "subclause iii of" in the third and fourth lines and by striking out "1974" in the seventh line and inserting in lieu thereof "1975".
- (8) Subsection 15 of the said section 17 is amended by <sup>s. 17 (15),
amended</sup> striking out "1974" in the sixth line and inserting in lieu thereof "1975" and by striking out "1974" in the twenty-seventh line and inserting in lieu thereof "the 1st day of July, 1975".
- (9) Subsection 16 of the said section 17 is amended by <sup>s. 17 (16),
amended</sup> striking out "1974" in the fifth line and in the twenty-fourth line and inserting in lieu thereof in each instance "1975".
- (10) Subsection 17 of the said section 17 is amended by <sup>s. 17 (17),
amended</sup> adding thereto the following clause:

(*da*) "timber resource property" of a corporation means,

(i) a right or licence to cut or remove timber from a limit or area in Canada, in this clause referred to as an "original right", if,

(A) that original right was acquired by the corporation, other than in the manner referred to in subclause ii, after May 6, 1974, and

(B) at the time of the acquisition of the original right,

1. the corporation may reasonably be regarded as having acquired, directly or indirectly, the right to extend or renew that original right or to acquire another such right or licence in substitution therefor, or

2. in the ordinary course of events, the corporation may reasonably expect to be able to extend or renew that original right or to acquire another such right or licence in substitution therefor, or

(ii) any right or licence owned by the corporation to cut or remove timber from a limit or area in Canada if that right or licence may reasonably be regarded,

(A) as an extension or renewal of or as one of a series of extensions or renewals of an original right of the corporation, or

(B) as having been acquired in substitution for or as one of a series of substitutions for an original right of the corporation or any renewal or extension thereof.

s. 17 (17) (f),
amended

(11) Clause *f* of subsection 17 of the said section 17 is amended by,

(a) inserting after "property" in the first and second lines of subclause ii "other than a timber resource property"; and

(b) adding thereto the following subclause:

Subsection 11. Subclause ii of clause *f* of subsection 17 of section 17 of the Act is amended to make it clear that the provisions of the Act to determine the undepreciated capital cost of property of a prescribed class will not apply in the case of a disposition of a timber resource property; and subclause iia is added to the said clause *f* to provide the rule that will apply where the proceeds of disposition of a timber resource property is less than the undepreciated balance in the class.

SECTION 7.—Subsection 1. Clause *n* of subsection 1 of section 22 of the Act is re-enacted to provide that royalties or equivalent amounts payable by oil, gas and mining corporations to governments or their agencies will not be deductible from the income of such corporations.

(iia) for each disposition before that time of a timber resource property of the corporation of that class, the lesser of,

(A) the proceeds of disposition of the property, and

(B) the undepreciated capital cost to it of property of that class immediately before the disposition.

7.—(1) Clause *n* of subsection 1 of section 22 of the said Act, ^{s. 22 (1) (*n*), re-enacted} as enacted by the Statutes of Ontario, 1974, chapter 75, section 2, is repealed and the following substituted therefor:

(*n*) any amount paid or payable in the year or the fair ^{Royalties} market value of any property paid or payable in the year (other than an amount or property paid or payable to Her Majesty in right of Canada for the use and benefit of a band or bands as defined in the *Indian Act* (Canada)) to, ^{R.S.C. 1970, c. I-6}

(i) Her Majesty in right of Canada or a province,

(ii) an agent of Her Majesty in right of Canada or a province, or

(iii) a corporation, commission, or association that is controlled, directly or indirectly in any manner whatever, by Her Majesty in right of Canada or a province or by an agent of Her Majesty in right of Canada or a province,

as a royalty or an equivalent amount, tax (other than a tax or portion thereof that may reasonably be considered to be a municipal or school tax levied for the purpose of providing services in the immediate area of the property of the corporation), rental, bonus, levy or otherwise or as an amount, however described, that may reasonably be regarded as being in lieu of a royalty or an equivalent amount, tax, rental, bonus, levy or other amount (whether such royalty or equivalent amount, tax, rental, bonus, levy or other amount is paid or payable pursuant to any other Act or a contract) that may reasonably be regarded as being in relation to,

(iv) the acquisition, development or ownership of a Canadian resource property, or a property

that would have been a Canadian resource property if it had been acquired after 1971, or

(v) the production in Canada of,

(A) petroleum, natural gas or related hydrocarbons, or

(B) metal or industrial minerals,

to any stage that is not beyond the prime metal stage or its equivalent,

from an oil or gas well or mineral resource situated on property in Canada from which the corporation had, at the time of such production, a right to take or remove petroleum, natural gas or related hydrocarbons or a right to take or remove metal or industrial minerals.

s. 22 (3),
re-enacted

(2) Subsection 3 of the said section 22 is repealed and the following substituted therefor:

Meaning
of certain
expressions
in sub. 2

(3) In subsection 2,

(a) "interest on borrowed money used to acquire land" includes,

(i) interest paid or payable in a year in respect of borrowed money that cannot be identified with particular land but that may nonetheless reasonably be considered, having regard to all the circumstances, as interest on borrowed money used in respect of or for the acquisition of land, and

(ii) interest paid or payable in the year by a corporation in respect of borrowed money that may reasonably be considered, having regard to all the circumstances, to have been used to assist, directly or indirectly, another person with whom the corporation does not deal at arm's length to acquire land to be used or held by that person, otherwise than as described in clause *c* or *e* or subsection 2, except where the assistance is in the form of a loan to that person and a reasonable rate of interest thereon is charged by the corporation; and

Subsection 2. Subsection 3 of section 22 of the Act is re-enacted to amend the definition of "land" in order to make it clear that commercial parking lots will be regarded as land for the purpose of subsection 2 of section 22 of the Act; also there is added a definition of the expression "interest on borrowed money used to acquire land" to make it clear that any interest that may reasonably be considered to be on money borrowed to acquire land will be treated as such, even if it is not possible to directly identify the borrowed money with the land.

Subsection 3. Subsection 5 of section 22 of the Act is re-enacted to provide with respect to a Canadian subsidiary of a non-resident life insurance corporation an exception to the present provisions which require that interest payable by Canadian subsidiaries of certain non-resident parent corporations (in respect of certain obligations and income debts owing to the parent corporation) is not deductible in computing the income of the Canadian subsidiary.

(b) "land" does not, except to the extent that it is used for the provision of parking facilities for a fee or charge, include,

(i) any property that is a building or other structure affixed to land,

(ii) the land subjacent to any property described in subclause i, or

(iii) such land immediately contiguous to the land described in subclause ii that is a parking area, driveway, yard, garden or similar land that is necessary for the use of any property described in subclause i.

(3) Subsection 5 of the said section 22, as amended by the Statutes of Ontario, 1973, chapter 157, section 4, is repealed and the following substituted therefor: s. 22 (5), re-enacted

(5) In subsection 4, "outstanding debts to specified non-residents" of a corporation at any particular time in a fiscal year means, Meaning of certain expressions in subs. 4

(a) the aggregate of amounts each of which is an amount outstanding at that time as or on account of a debt or other obligation to pay an amount,

(i) that was payable by the corporation to a person who was, at any time in the year,

(A) a shareholder of the corporation, who, either alone or together with persons with whom the shareholder was not dealing at arm's length, owned 25 per cent or more of the issued shares of any class of the corporation and who was,

1. a person not resident in Canada, or

2. a non-resident-owned investment corporation, or

(B) a person described in paragraph 1 or 2 of sub-subclause A who was not dealing at arm's length, with a shareholder of the corporation, if the shareholder, either alone or together with persons with whom he was not dealing

at arm's length, owned 25 per cent or more of the issued shares of any class of the corporation, and

- (ii) on which any amount in respect of interest paid or payable by the corporation is or would be, but for subsection 4, deductible in computing the corporation's income for the year,

but does not include,

- (b) where the corporation is a subsidiary of a non-resident life insurance corporation, the aggregate of amounts each of which is an amount outstanding at that time as or on account of a debt or other obligation to pay an amount to the life insurance corporation and such debt or other obligation has, by virtue of an election made under subsection 9 of section 138 of the *Income Tax Act* (Canada), been included by the life insurance corporation in its fiscal year that included the particular time as property held by it in the year in the course of carrying on an insurance business in Canada and the life insurance corporation has included the revenue therefrom in computing its income for the year from carrying on an insurance business in Canada.

1970-71,
c. 63 (Can.)

s. 24 (1) (p),
amended

- 8.—(1) Clause *p* of subsection 1 of section 24 of the said Act is amended by striking out "receivable" in the fifth line and inserting in lieu thereof "due".

s. 24 (1) (*dd*),
re-enacted

- (2) Clause *dd* of subsection 1 of the said section 24 is repealed and the following substituted therefor:

Fees paid
to investment
counsel

- (*dd*) an amount other than a commission paid by the corporation in the fiscal year to a person,

- (i) for advice as to the advisability of purchasing or selling a specific share or security of the corporation, or

- (ii) for services in respect of the administration or management of shares or securities of the corporation,

if that person's principal business,

- (iii) is advising others as to the advisability of purchasing or selling specific shares or securities, or

SECTION 8.—Subsection 1. Clause *p* of subsection 1 of section 24 of the Act is amended by changing the word “receivable” to “due” to make it clear that the reserve permitted under clause *p* may be claimed only where payment of this amount is not yet due.

Subsection 2. Clause *dd* of subsection 1 of section 24 of the Act is re-enacted to allow the deduction of the full amount of investment counsel fees (the deduction previously was for 50% of such fees).

Subsection 3. Subsection 5 of section 24 of the Act is amended to exclude bad debts arising on the sale of timber resource property from the reduction of the deduction for bad debts.

Subsection 4. Subsection 5a is added to section 24 of the Act to permit deduction from income where any part of the proceeds of disposition of a timber resource property is established by the corporation to have become a bad debt.

Subsection 5. Subsection 6 of section 24 is amended to make it clear that the provisions of that subsection do not apply in the case of a disposition of a timber resource property.

Subsection 6. Subsection 6a is added to section 24 of the Act to provide that where the proceeds of disposition of a timber resource property includes a mortgage or similar instrument that is subsequently sold for an amount less than the principal amount, the difference may be deducted from income.

Subsection 7. Subsection 9 of section 24 of the Act is re-enacted to make it clear that the reserve for amounts not yet due will not be allowed for a fiscal year if at the end of that year or in the immediately following fiscal year the corporation ceased to have a permanent establishment in Canada.

(iv) includes the provision of services in respect of the administration or management of shares or securities.

(3) Subsection 5 of the said section 24 is amended by inserting after "property" in the second line "other than a timber resource property". s. 24 (5),
amended

(4) The said section 24, as amended by the Statutes of Ontario, 1973, chapter 42, section 5, 1973, chapter 157, section 5 and 1974, chapter 75, section 3, is further amended by adding thereto the following subsection: s. 24,
amended

(5a) Where an amount that is owing to a corporation as or Idem
on account of the proceeds of disposition of a timber resource property of the corporation is established by it to have become a bad debt in a fiscal year, the amount so owing to the corporation may be deducted in computing its income for the fiscal year.

(5) Subsection 6 of the said section 24 is amended by inserting after "property" in the first line "other than a timber resource property". s. 24 (6),
amended

(6) The said section 24 is further amended by adding thereto the following subsection: s. 24,
amended

(6a) Where a timber resource property of a corporation Idem
has, in a fiscal year, been disposed of to a person with whom the corporation was dealing at arm's length, and the proceeds of disposition include an agreement for sale of or mortgage or hypothec on land that the corporation has, in a subsequent fiscal year, sold to a person with whom it was dealing at arm's length, there may be deducted in computing the income of the corporation for the subsequent fiscal year the amount, if any, by which the principal amount of the agreement for sale, mortgage or hypothec outstanding at the time of the sale exceeds the consideration paid by the purchaser to the corporation for the agreement for sale, mortgage or hypothec.

(7) Subsection 9 of the said section 24 is repealed and the following substituted therefor: s. 24 (9),
re-enacted

(9) Clause *p* of subsection 1 does not apply to allow a deduction in computing the income of a corporation for a fiscal year from a business in respect of a property sold in the course of the business if the corporation, at the end of the fiscal year or at any time in the immediately following fiscal year, No
deduction in
respect of
property in
certain cir-
cumstances

(a) was exempt from tax under any provision of this Part; or

(b) ceased to have a permanent establishment in Canada.

s. 24 (10),
amended

(8) Subsection 10 of the said section 24 is amended by inserting after "the" in the sixth line "nine".

s. 24,
amended

(9) The said section 24 is further amended by adding thereto the following subsection:

Convention
expenses

(10a) Notwithstanding clause *b* of subsection 1 of section 22, there may be deducted in computing the income of a corporation for a fiscal year from a business an amount paid by the corporation in the fiscal year as or on account of expenses incurred by an employee or officer of the corporation in attending, in connection with the business, not more than two conventions held during the year by a business or professional organization at a location that may reasonably be regarded as consistent with the territorial scope of that organization.

s. 25 (2),
amended

9.—(1) Subsection 2 of section 25 of the said Act is amended by inserting after "development" in the second and third lines and in the fourth line "or the acquisition of property" and by striking out "and" in the fourth line and inserting in lieu thereof "or".

s. 25 (2) (a),
amended

(2) Clause *a* of subsection 2 of the said section 25 is amended by striking out "and" in the twelfth line and inserting in lieu thereof "or".

s. 25 (2) (b),
amended

(3) Clause *b* of subsection 2 of the said section 25 is amended by striking out "exploration, prospecting and development expenses" in the third line and inserting in lieu thereof "Canadian exploration and development expenses as defined in section 63".

s. 26 (2),
amended

10. Subsection 2 of section 26 of the said Act is amended by inserting after "shall", in the fourth line "subject to subsection 1 of section 66".

s. 27 (2),
repealed

11. Subsection 2 of section 27 of the said Act is repealed.

s. 35 (1) (a),
re-enacted

12.—(1) Clause *a* of subsection 1 of section 35 of the said Act is repealed and the following substituted therefor:

(a) the aggregate of,

(i) $1\frac{1}{2}$ per cent of the lesser of,

Subsection 8. Subsection 10 of section 24 of the Act is amended for the purpose of clarification.

Subsection 9. Subsection 10*a* is added to section 24 of the Act to allow a corporation to deduct certain convention expenses of its employees and officers, for not more than two conventions in each year.

SECTION 9. Subsection 2 of section 25 is amended to provide that the election that corporations have to deduct in the year incurred or carry forward to subsequent fiscal years the interest cost of money borrowed for the purpose of exploration, prospecting or development, will also apply to the interest cost of money borrowed to purchase certain resource properties.

SECTION 10. Subsection 2 of section 26 of the Act is amended by making the said subsection 2 subject to subsection 1 of section 66 of the Act in order to make it clear that the provisions of subsection 1 of section 66 apply where the parties to a sale of accounts receivable are not dealing with each other at arm's length.

SECTION 11. Subsection 2 of section 27 of the Act is repealed, with the result that in the case of a non-arm's length sale of inventory for inadequate consideration the fair market value of the inventory must be used (since section 66 of the Act will be applicable).

SECTION 12.—Subsection 1. Clause *a* of subsection 1 of section 35 of the Act is re-enacted to reduce the investment reserve on outstanding loans in excess of \$2,000,000,000 allowed to corporations lending on the security of mortgages; the rate on the amount in excess of \$2,000,000,000 will be 1 per cent instead of the former 1½ per cent.

THE HISTORY OF THE
CITY OF BOSTON

FROM THE FIRST SETTLEMENT
TO THE PRESENT TIME

BY
JOHN B. HENNING

IN TWO VOLUMES.
VOL. I.

THE CITY OF BOSTON, FROM THE FIRST SETTLEMENT TO THE PRESENT TIME, contains a full and complete history of the city, from the first settlement in 1630, to the present time. It is a history of the city, and not of the state, and is written for the people of the city. It is a history of the city, and not of the state, and is written for the people of the city. It is a history of the city, and not of the state, and is written for the people of the city.

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(A) the aggregate of,

1. each amount outstanding at the end of the fiscal year as or on account of the amortized cost of loans made by the corporation on the security of a mortgage, hypothec or agreement for sale of real property, or as or on account of the amortized cost of any such mortgage, hypothec or agreement for sale purchased by the corporation,
2. each amount due and unpaid at the end of the fiscal year as or on account of interest payable to the corporation under a mortgage, hypothec or agreement for sale of real property,
3. each amount that has been taken into account in computing the income of the corporation for the fiscal year as or on account of the value of real property of the corporation that was included in the inventory of the corporation at the end of the year and that was acquired, by foreclosure or otherwise, after default made under a mortgage, hypothec or agreement for sale of real property, otherwise than as or on account of the value of real property in respect of which any amount for the year has been included under paragraph 1 or 2, and
4. where the corporation is licensed or otherwise authorized under the laws of Canada or a province to carry on in Canada the business of offering to the public its services as trustee, each amount outstanding at the end of the fiscal year as or on ac-

count of the amortized cost of a bond or debenture (other than a bond or debenture that matures within one year after that time) owned by the corporation at that time and held by it in respect of money received by it in trust for investment subject to a guarantee by it in respect of the repayment of the principal or the payment of interest, or both, and each amount due and unpaid as or on account of interest payable in respect of such bond or debenture to the corporation, and

(B) \$2,000,000,000, and

- (ii) 1 per cent of the amount, if any, by which the aggregate referred to in sub-subclause A of subclause i exceeds the amount referred to in sub-subclause B of subclause i; and

s. 35,
amended

- (2) The said section 35 is amended by adding thereto the following subsection:

Interpre-
tation

(3) In this section, "amortized cost" of a bond, debenture, mortgage, hypothec or agreement for sale at any time means the amount, if any, by which the aggregate of,

- (a) the cost to the corporation of acquiring the bond, debenture, mortgage, hypothec or agreement for sale; and

- (b) the portion of the amount, if any, by which,

- (i) the principal amount of the bond, debenture, mortgage, hypothec or agreement for sale at the time it was acquired by the taxpayer,

exceeds

- (ii) the cost thereof to the corporation of acquiring it,

Subsection 2. Subsection 3 of section 35 is enacted to define the expression "amortized cost" as used in the above amendment to clause *a* of subsection 1 of section 35.

SECTION 13. Subsections 1 and 2 amend subsection 1 of section 39 to allow a corporation to deduct such part of its scientific expenditures as it may claim and to allow it to carry forward the unclaimed balance for deduction in subsequent fiscal years.

that was included in computing the income of the corporation for any fiscal year ending at or before that time,

exceeds the aggregate of,

(c) the portion of the amount, if any, by which,

(i) the cost to the corporation of acquiring the bond, debenture, mortgage, hypothec or agreement for sale,

exceeds

(ii) the principal amount thereof at the time it was acquired by the corporation,

that was deducted in computing the income of the corporation for any fiscal year ending at or before that time; and

(d) the aggregate of all amounts that, before that time, the corporation became entitled to receive as or on account or in lieu of payment of or in satisfaction of the principal amount of the bond, debenture, mortgage, hypothec or agreement for sale.

13.—(1) Clause *a* of subsection 1 of section 39 of the said Act is amended by striking out “all expenditures of a current nature made in Canada in the fiscal year” in the first and second lines and inserting in lieu thereof “such amounts as may be claimed by the corporation not exceeding all expenditures of a current nature made in Canada by the corporation in the fiscal year or in any previous fiscal year ending after 1973”. s. 39 (1) (a),
amended

(2) Subsection 1 of section 39 is amended by striking out all that portion thereof following subclause ii of clause *b* and inserting in lieu thereof the following: s. 39 (1),
amended

(c) such amounts as may be claimed by the corporation not exceeding all expenditures in the fiscal year or in any previous fiscal year ending after 1973 by way of repayment of amounts paid to the corporation under an *Appropriation Act* (Canada) and on terms and conditions approved by the Minister in respect of scientific research expenditures incurred for the purpose of advancing or sustaining the technological capability of Canadian manufacturing or other industry,

exceeds

- (d) the aggregate of all amounts paid to the corporation in the fiscal year or in any previous fiscal year ending after 1973 under an *Appropriation Act* (Canada) and on terms and conditions described in clause c,

to the extent that such expenditures were not deducted in computing the income of the corporation for any previous fiscal year.

s. 41 (1) (a),
amended

- 14.** Clause *a* of subsection 1 of section 41 of the said Act is amended by striking out “and” at the end of subclause iii and inserting in lieu thereof “or” and by adding thereto the following subclause:

(iv) a timber resource property; and

s. 42 (2) (a),
re-enacted

- 15.—(1)** Clause *a* of subsection 2 of section 42 of the said Act is repealed and the following substituted therefor:

(a) subclause iii of clause *a* of subsection 1 does not apply to permit a corporation to claim any amount thereunder in computing a gain for a fiscal year if,

(i) the corporation, at the end of the fiscal year or at any time in the immediately following fiscal year, ceased to have a permanent establishment in Canada or was exempt from tax under any provision of this Part, or

(ii) the purchaser of the property sold is a corporation that, immediately after the sale,

(A) was controlled directly or indirectly by the corporation,

(B) was controlled directly or indirectly by a person or group of persons by whom the corporation was controlled directly or indirectly, or

(C) controlled the corporation directly or indirectly.

s. 42 (3) (b),
re-enacted

- (2) Clause *b* of subsection 3 of the said section 42 is repealed and the following substituted therefor:

(b) the aggregate of,

SECTION 14. Clause *a* of subsection 1 of section 41 of the Act is amended to make it clear that the profit from the sale of a timber resource property will not be treated as a capital gain.

SECTION 15.—Subsection 1. Clause *a* of section 42 of the Act is amended to provide that the reserve, allowed where proceeds from the sale of capital assets is not receivable in the year, will not be allowed where at the end of the year or in the following year the corporation becomes exempt from tax, or where the sale was not at arm's length.

Subsection 2. Clause *b* of subsection 3 of section 42 of the Act is amended for the purpose of clarification as to the "cost" to be used in determining under the said subsection 3 whether there is a capital gain.

SECTION 16. This section amends section 45 of the Act to make it clear that the provisions for determining the gain from the sale of part of a property also apply in determining losses from such dispositions.

SECTION 17. This section re-enacts section 46 of the Act to extend by one year the period during which property that has been expropriated, lost or destroyed must be replaced in order to obtain a deferral of the realization of a capital gain.

- (i) the cost to the corporation of the property determined for the purpose of computing the adjusted cost base to it of that property at that time, and
- (ii) all amounts required by subsection 1 of section 55 to be added to the cost to the corporation of the property in computing the adjusted cost base to it of that property at that time,

16. Section 45 of the said Act is amended by inserting after ^{s. 45,} "gain" in the first line "or loss". ^{amended}

17. Section 46 of the said Act is repealed and the following ^{s. 46,} substituted therefor: ^{re-enacted}

46.—(1) Where in a fiscal year an amount has become ^{Deferral of} receivable, as described in subsection 2, by a corporation as ^{gain on} proceeds of disposition described in subclause iii or iv of ^{involuntary} clause *d* of subsection 17 of section 17 or subclause iii or ^{disposition} iv of clause *i* of section 56 of any capital property, in this section referred to as its "former property", and, before the end of the second fiscal year following the fiscal year in which such amount became receivable, the corporation has acquired a capital property, in this section referred to as its "replacement property", as a replacement for the former property and the replacement property has not been disposed of by the corporation prior to the time it disposed of the former property, notwithstanding subsection 1 of section 42,

(a) the gain, if any, from the disposition of the former property is the lesser of,

(i) the gain therefrom otherwise determined, and

(ii) the amount, if any, by which the proceeds of disposition of the former property exceed the cost, or in the case of depreciable property the capital cost, to the corporation, determined without reference to clause *b*, of the replacement property;

(b) the cost, or in the case of depreciable property the capital cost, to the corporation of the replacement property, at any time after the time it disposed of the former property, shall be deemed to be the cost, or in the case of depreciable property the

capital cost, to the corporation of the replacement property otherwise determined, minus the amount, if any, by which the gain described in subclause i of clause *a* exceeds the amount, if any, determined under subclause ii of clause *a*; and

- (c) where the replacement property was depreciable property of a prescribed class and that property was acquired by the corporation prior to the time it disposed of the former property, the amount, if any, by which,

- (i) the reduction in the capital cost to it of the replacement property by virtue of clause *b*,

exceeds

- (ii) the undepreciated capital cost to the corporation of depreciable property of the class to which the replacement property belongs, immediately before the reduction in the capital cost referred to in subclause i,

shall be included in computing the income of the corporation for the fiscal year in which the former property was disposed of and shall, for the purposes of subsection 2 of section 17 be deemed to have been so included by virtue of subsection 1 of section 17 in respect of a disposition of depreciable property of the class to which the replacement property belongs.

Idem

(2) For the purposes of this Act, the day on which a corporation has disposed of a property, the proceeds of disposition from which are described in subclause iii or iv of clause *d* of subsection 17 of section 17 or subclause iii or iv of clause *i* of section 56, and the day on which an amount has become receivable by that corporation as proceeds of disposition of such a property shall be deemed to be the earliest of,

- (a) the day the corporation has agreed to an amount as full compensation to it for the property lost, destroyed, taken or sold;
- (b) where a claim, suit, appeal or other proceeding has been taken before one or more tribunals or courts of competent jurisdiction, the day on which the corporation's compensation for the property is finally determined by such tribunals or courts;

SECTION 18. This section amends subsection 2 of section 47 of the Act to clarify an incorrect reference.

SECTION 19. Section 51 of the Act is amended by adding subsection 5 thereto to provide that the provisions relating to the granting of options shall apply to renewals or extensions thereof; a renewal or extension of an option is treated as if a new option was granted at the time of the renewal or extension.

SECTION 20. Section 53 of the Act is re-enacted to make it clear that the permitted deferral of the realization of capital gains or losses on exchanges of shares is limited to those exchanges where no consideration is received by the corporation on the exercise of its conversion right other than shares of one class of the capital stock of the other corporation.

- (c) where a claim, suit, appeal or other proceeding, referred to in clause *b* has not been taken before a tribunal or court of competent jurisdiction within two years of the loss, destruction or taking of the property, the day that is two years following the day of the loss, destruction or taking;
- (d) the day on which the corporation is deemed by section 50 to have disposed of the property; and
- (e) where the corporation is not a subsidiary corporation referred to in subsection 1 of section 82, the day immediately before the winding up of the corporation,

and the corporation shall be deemed to have owned the property continuously until the day so determined.

18. Subsection 2 of section 47 of the said Act is amended by ^{s. 47 (2),} ^{amended} inserting after "where" in the first line "subclause i of".

19. Section 51 of the said Act, as amended by the Statutes of ^{s. 51,} ^{amended} Ontario, 1973, chapter 157, section 11, is further amended by adding thereto the following subsection:

(5) Where a corporation has granted an option, in this ^{Idem} subsection referred to as the "original option", to which subsection 1 or 2 applies, and has granted one or more extensions or renewals of that original option,

- (a) for the purposes of subsections 1 and 2, the granting of each extension or renewal shall be deemed to be the granting of an option at the time the extension or renewal is granted;
- (b) for the purposes of subsections 2, 3 and 4 and sub-subclause D of subclause ii of clause *c* of section 56, the original option and each extension or renewal thereof shall be deemed to be the same option; and
- (c) subsection 4 shall be read as if the fiscal year in which the original option was granted and each fiscal year in which any extension or renewal thereof was granted were all initial fiscal years.

20. Section 53 of the said Act, as amended by the Statutes of ^{s. 53,} ^{re-enacted} Ontario, 1973, chapter 157, section 12, is repealed and the following substituted therefor:

Convertible
properties

53. Where shares of one class of the capital stock of a corporation have, after the 6th day of May, 1974, been acquired by a person in exchange for a capital property of the person that was a share, bond, debenture or note of the corporation, in this section referred to as a "convertible property", the terms of which conferred upon the holder the right to make the exchange and no consideration was received by the person for the convertible property other than shares of that class,

- (a) the exchange shall be deemed not to have been a disposition of property; and
- (b) the cost to the person of the shares shall be deemed to be the adjusted cost base to him of the convertible property immediately before the exchange.

s. 54 (1),
amended

21.—(1) Subsection 1 of section 54 of the said Act is amended by inserting after "1971" in the second line "(other than property acquired as described in subsection 2, 3 or 6)".

s. 54 (1a),
amended

(2) Subsection 1a of the said section 54, as enacted by the Statutes of Ontario, 1973, chapter 157, section 13, is amended by inserting after "1971" in the third line "(other than property acquired as described in subsection 2, 3 or 6)".

s. 55 (1) (c),
amended

22.—(1) Clause *c* of subsection 1 of section 55 of the said Act is amended by striking out "loan" in the fifth line and inserting in lieu thereof "a loan or, subject to subsection 1a, a disposition of property in respect of which the corporation and that other corporation have made an election under section 79".

s. 55 (1),
amended

(2) Subsection 1 of the said section 55, as amended by the Statutes of Ontario, 1973, chapter 157, section 14, is further amended by adding thereto the following clauses:

(ca) where the property is a share of the capital stock of a foreign affiliate of the corporation, any amount required by paragraph *a* of subsection 1 of section 92 of the *Income Tax Act* (Canada) to be added in computing the adjusted cost base to it of the share;

(cb) where the property is a capital interest of the corporation in a trust to which paragraph *d* of subsection 1 of section 94 of the *Income Tax Act* (Canada) applies, any amount required by paragraph *a* of subsection 5 of section 94 of that Act

1970-71, c. 63
(Can.)

SECTION 21. Subsections 1 and 1*e* of section 54 are amended to make it clear that the rules in those subsections as to the cost of certain property do not apply to the acquisitions of property referred to in subsections 2, 3 and 6 of section 54. This amendment eliminates from the section the ambiguity in that regard.

SECTION 22.—Subsection 1. This amendment to clause *c* of subsection 1 of section 55 is complementary to the enactment of subsection 1*a* of section 55 of the Act and the amendments to section 79 of the Act.

Subsection 2. Subsection 1 of section 55 of the Act is amended by adding thereto clause *ca* to require that there be added to the cost of shares of a foreign affiliate the amount of foreign accrued property income that has been included in income; and clause *cb* to require to be added to the cost of a capital interest in a trust the amount of foreign accrual property income that has been included in income.

Subsections 3, 4 and 5. Amendments are made to clause *d* of subsection 1 of section 55 of the Act to clarify the provisions with regard to additions to the adjusted cost base of partnership interests.

Subsection 6. Subsection 1*a* is added to section 55 of the Act to provide a rule for determining the amount to be added to the adjusted cost base of property where a corporation that has made capital contributions to another corporation of which it is a shareholder sells those shares before May 7, 1974.

to be added in computing the adjusted cost base to it of the interest.

- (3) Subclause *i* of clause *d* of subsection 1 of the said section 55 is amended by inserting after "share" in the fourth line, "other than a share under an agreement referred to in subsection 1*a* of section 85," ^{s. 55 (1) (d) (i), amended}

- (4) Sub-subclause B of subclause *i* of clause *d* of subsection 1 of the said section 55 is repealed and the following ^{s. 55 (1) (d) (i) (B), re-enacted} substituted therefor:

(B) clause *b* of subsection 1 of section 31*a*,
clause *b* of subsection 2 of section 31*a*,
clause *h* of this subsection, section 57
and subsection 2 of section 75.

- (5) Clause *d* of subsection 1 of the said section 55 is amended ^{s. 55 (1) (d), amended} by striking out "and" at the end of subclause *iii*, by adding "and" at the end of subclause *iv* and by adding thereto the following subclauses:

(v) the corporation's share, other than a share under an agreement referred to in subsection 1*a* of section 85, of the amount, if any, by which,

(A) any proceeds of disposition that become receivable by the partnership in respect of the disposition after 1971 of a property owned by the partnership on the 31st day of December, 1971 that is a property referred to in clause *a* of subsection 3 of section 59,

exceeds

(B) the relevant percentage as defined in subsection 4 of section 59 of the proceeds of disposition described in sub-subclause A, and

(vi) any amount deemed by clause *c* of subsection 1 of section 87*a* to be a gain of the corporation for a fiscal year from a disposition before that time of the property.

- (6) Section 55 of the said Act, as amended by the Statutes of Ontario 1973, chapter 157, section 14, is further ^{s. 55, amended} amended by adding thereto the following subsection:

Deemed
contribution
of capital

(1a) For the purposes of clause *c* of subsection 1, where there has been a disposition of property before the 7th day of May, 1974, and,

- (a) the corporation and the other corporation referred to in that clause have made an election under section 79 in respect of that property; and
- (b) the consideration received by the corporation for the property did not include shares of the capital stock of the other corporation,

the disposition of property shall be deemed to be a contribution of capital equal to the amount, if any, by which,

- (c) the amount that the corporation and the other corporation have agreed upon in the election,

exceeds

- (d) the fair market value at the time of the disposition of any consideration received by the corporation for the property so disposed of.

s. 55 (2),
amended

- (7) Subsection 2 of the said section 55, as amended by the Statutes of Ontario, 1973, chapter 157, section 14, is further amended by adding thereto the following clauses:

1970-71,
c. 63 (Can.)

- (aa) where the property is a share of the capital stock of another corporation not resident in Canada, any amount required by paragraph *d* of subsection 4 of section 80.1 of the *Income Tax Act* (Canada) or section 92 of that Act to be deducted in computing the adjusted cost base to the corporation of the share;

- (ab) where the property is a capital interest of the corporation in a trust to which paragraph *d* of subsection 1 of section 94 of the *Income Tax Act* (Canada) applies, any amount required by paragraph *b* of subsection 5 of section 94 of that Act to be deducted in computing the adjusted cost base to it of the interest.

s. 55 (2) (b) (1),
amended

- (8) Subclause i of clause *b* of subsection 2 of the said section 55 is amended by inserting after "share" in the fourth line "(other than a share under an agreement referred to in subsection 1a of section 85)".

s. 55 (2) (b) (ii),
amended

- (9) Subclause ii of clause *b* of subsection 2 of the said section 55 is amended by striking out all that portion

Subsection 7. Subsection 2 of section 55 of the Act is amended by adding thereto clause *aa* providing a deduction from the adjusted cost base of shares of a non-resident corporation. This deduction, in respect of certain dividends received which represent a return of capital or a return of previously taxed foreign accrual property income, will result in a larger taxable capital gain when the shares are sold. In addition clause *ab* is added to subsection 2 of section 55 of the Act providing a reduction of the adjusted cost base of a capital interest in a trust by the amount of the gross-up of foreign taxes resulting in foreign accrual property income. This gross-up is allowed as a deduction from income. As a result of this reduction in cost, when the interest in the trust is disposed of, the taxable capital gain will be increased.

Subsections 8, 9 and 10. Amendments are made to clause *b* of subsection 2 of section 55 of the Act to clarify the provisions with respect to deductions from the adjusted cost base of an interest in a partnership.

Subsection 11. This amendment requires to be deducted from the adjusted cost base of property that is a share of a joint exploration corporation such portion of a contribution of capital to the joint exploration corporation as represents its Canadian exploration and development expenses.

Subsection 12. The existing provisions requiring deductions from the adjusted cost base of property that is a capital interest in a non-resident trust or a unit in a non-resident unit trust where more than 50 per cent of the property of such trust is taxable Canadian property, are expanded to make the provisions applicable to other types of property owned by the trust, including Canadian resource property and timber resource property.

immediately preceding sub-subclause B and inserting in lieu thereof the following:

- (ii) an amount in respect of each fiscal year of the partnership ending after 1971 and before that time, other than a fiscal period after the fiscal year in which the corporation ceased to be a member of the partnership, equal to the corporation's share of the aggregate of,

- (A) amounts that, but for clause *d* of subsection 1 of section 85, would be deductible in computing the income of the partnership for the fiscal year by virtue of the provisions of the *Corporations Tax Application Rules, 1972* relating to Canadian exploration and development expenses, and

- (10) Subclause iv of clause *b* of subsection 2 of the said section 55 is amended by inserting after "share" in the fourth line "(other than a share under an agreement referred to in subsection 1*a* of section 85)". s. 55 (2) (b) (iv),
amended

- (11) Subsection 2 of the said section 55 is further amended by adding thereto the following clause: s. 55 (2),
amended

- (*ea*) where the property is a share of the capital stock of a joint exploration corporation (hereafter in this clause referred to as the "company") resident in Canada and the corporation has, after 1971, made a contribution of capital to the company otherwise than by way of a loan, which contribution was included in computing the adjusted cost base of the property by virtue of clause *c* of subsection 1, such portion of the contribution as may reasonably be considered to be part of an agreed portion, within the meaning given to that expression by clause *a* of subsection 12 of section 63, of the company's Canadian exploration and development expenses.

- (12) Clauses *h* and *i* of subsection 2 of the said section 55 are repealed and the following substituted therefor: s. 55 (2) (*h*, *i*),
re-enacted

- (*h*) where the property is a capital interest in a trust, other than a unit trust, not resident in Canada

that was purchased after 1971 by the corporation from a non-resident person at a time when the fair market value of such of the trust property as was,

- (i) a Canadian resource property,
- (ii) property that would have been a Canadian resource property if it had been acquired after 1971,
- (iii) an income interest in a trust resident in Canada,
- (iv) taxable Canadian property, or
- (v) a timber resource property,

was not less than 50 per cent of the aggregate of,

- (vi) the fair market value of all the trust property, and
- (vii) the amount of any money of the trust on hand,

that proportion of the amount, if any, by which,

- (viii) the fair market value at that time of such of the trust property as was property described in subclauses i to v,

exceeds

- (ix) the aggregate of the adjusted cost bases to the trust at that time of such of the trust properties as were properties described in subclauses i to v,

that the fair market value at that time of the interest is of the fair market value at that time of all capital interests in the trust;

- (i) where the property is a unit of a unit trust not resident in Canada that was purchased after 1971 by the corporation from a non-resident person at a time when the fair market value of such of the trust property as was,

- (i) a Canadian resource property,

Subsection 13. This amendment expands the existing provisions requiring deductions from the adjusted cost base of property in respect of a grant, subsidy or other governmental assistance, to require such deduction in respect of forgivable loans and investment allowances.

(ii) property that would have been a Canadian resource property if it had been acquired after 1971,

(iii) an income interest in a trust resident in Canada,

(iv) taxable Canadian property, or

(v) a timber resource property,

was not less than 50 per cent of the aggregate of,

(vi) the fair market value of all the trust property, and

(vii) the amount of any money of the trust on hand,

that proportion of the amount, if any, by which,

(viii) the fair market value at that time of such of the trust property as was property described in subclauses i to v,

exceeds

(ix) the aggregate of the adjusted cost bases to the trust at that time of such of the trust properties as were properties described in subclauses i to v,

that the fair market value at that time of the unit is of the fair market value at that time of all of the issued units of the trust.

(13) Clause *j* of subsection 2 of the said section 55 is repealed ^{s. 55 (2) (j), re-enacted} and the following substituted therefor:

(*j*) where the property was acquired by the corporation after 1971, the amount, if any, by which,

(i) the amount of any assistance which it has received or is entitled to receive before that time from a government, municipality or other public authority, in respect of, or for the acquisition of, the property, whether as a grant, subsidy, forgivable loan, investment allowance or as any other form of assistance other than,

(A) an amount authorized to be paid under an *Appropriation Act* (Canada) and on terms and conditions approved by the Minister in respect of scientific research expenditures incurred for the purpose of advancing and sustaining the technological capability of Canadian manufacturing or other industry, or

(B) an amount deducted as an allowance under section 62,

exceeds

(ii) such part, if any, of the assistance referred to in subclause i as has been repaid before that time by the corporation pursuant to an obligation to repay all or any part of that assistance.

s. 55 (2),
amended

(14) Subsection 2 of the said section 55 is further amended by striking out "and" at the end of clause *l*, by adding "and" at the end of clause *m* and by adding thereto the following clause:

(*n*) where the property is a foreign resource property, any amount that has become receivable by the corporation at a particular time in a fiscal year as the result of a transaction that occurred after the 6th day of May, 1974, in which the consideration given by the corporation for the amount was property or services, the original cost of which may reasonably be regarded as having been foreign exploration and development expenses of the corporation, or would have been so regarded if they had been incurred by it after 1971.

s. 56 (c) (iii),
amended

23.—(1) Subclause iii of clause *c* of section 56 of the said Act is amended by striking out "clause *v*" in the fourth line and inserting in lieu thereof "subclause *v*".

s. 56 (e),
amended

(2) Clause *e* of the said section 56 is amended by adding "and" at the end of subclause iii and by adding thereto the following subclause:

(iv) any annual payment made by the corporation for the preservation of a foreign resource property or property that would have been a foreign resource property if it had been acquired by the corporation after 1971.

Subsection 14. This amendment requires a deduction from the adjusted cost base of foreign resource property where there has been a recovery of part of the cost of such property.

SECTION 23.—Subsection 1. This amendment corrects a typographical error.

Subsection 2. The definition of “foreign exploration and development expenses” is expanded to include an annual payment made to preserve a foreign resource property.

Subsection 3. The definition of "proceeds of disposition" of property is amended to exclude therefrom any amount that is deemed by section 78a to be a dividend.

Subsection 4. The definition of "superficial loss" of a person is amended for the purpose of clarification.

Subsection 5. This amendment expands the exceptions contained in the definition of "superficial loss" so that certain types of capital losses will not be treated as superficial losses.

SECTION 24. Clause f of subsection 1 of section 58 of the Act, which requires a corporation to include in income amounts received as legal costs awarded by a court on an appeal, is amended to include legal costs awarded on an appeal in relation to a decision of the Unemployment Insurance Commission, a board of referees, or an umpire under the *Unemployment Insurance Act, 1971* (Canada).

- (3) Clause *i* of the said section 56 is amended by striking out all that portion following subclause viii and inserting in lieu thereof the following: ^{s. 56 (i), amended}

but notwithstanding any other provision of this Part, does not include,

- (ix) any amount that would otherwise be proceeds of disposition of a share to the extent that such amount is deemed by subsection 2 or 3 of section 78 to be a dividend, or

- (x) any amount that would otherwise be proceeds of disposition of a debt owing to a corporation to the extent that such amount,

(A) is deemed by subsection 1 of section 78*a* to be a dividend received by the corporation, and

(B) is a taxable dividend; and

- (4) Subclause ii of clause *j* of the said section 56 is repealed and the following substituted therefor: ^{s. 56 (j) (ii), re-enacted}

- (ii) at the end of the period referred to in subclause i, the person or the corporation controlled by him, as the case may be, owned in any manner whatever the substituted property,

- (5) Subclause iii of clause *j* of the said section 56 is amended by inserting after "section 50" in the first line "section 52 or subsection 1 of section 47": ^{s. 56 (j) (iii), amended}

- 24.** Clause *f* of subsection 1 of section 58 of the said Act is repealed and the following substituted therefor: ^{s. 58 (1) (f), re-enacted}

- (*f*) amounts received by the corporation in the fiscal year as legal costs awarded to it by a court on an appeal in relation to, ^{Legal costs}

- (i) an assessment of tax, interest or penalties under this Act or the *Income Tax Act* ^{1970-71, c. 63 (Can.)} (Canada), or

1970-71-72,
c. 48 (Can.)

- (ii) a decision of the Unemployment Insurance Commission, a board of referees or an umpire under the *Unemployment Insurance Act, 1971* (Canada),

if with respect to that assessment or decision, as the case may be, an amount has been deducted or may be deductible under clause *b* of subsection 1 of section 60 in computing its income.

s. 59 (1),
amended

- 25.—**(1) Subsection 1 of section 59 of the said Act is amended by striking out “in a fiscal year” in the first line and by striking out the five lines immediately preceding subsection 2 and inserting in lieu thereof “the corporation’s proceeds of disposition therefrom shall be included in computing the corporation’s income for the fiscal year, to the extent that the proceeds become receivable in that year”.

s. 59 (3),
re-enacted

- (2) Subsection 3 of the said section 59 is repealed and the following substituted therefor:

Disposition
of resource
property
acquired
before 1972

(3) Where a corporation has made a disposition of property owned, or deemed to have been owned, by him on the 31st day of December, 1971 and thereafter without interruption until the date of disposition that is property described in any of subclauses *i* to *vi* of clause *c* of subsection 12 of section 63 and is not property described in clause *b* of subsection 1, the following rules apply,

- (a) the relevant percentage of the corporation’s proceeds of disposition therefrom shall be included in computing the corporation’s income for the fiscal year to the extent that the proceeds become receivable; and
- (b) where the corporation and the person who acquired the property were not dealing with each other at arm’s length, for the purposes of this section and section 63,
 - (i) the cost to that person of the property shall be deemed to be the amount included in the corporation’s income by virtue of clause *a* in respect of the disposition by the corporation of the property, and
 - (ii) when that person subsequently disposes of the property or any right or interest therein, that person shall be deemed to have owned

SECTION 25.—Subsection 1. Subsection 1 of section 59 of the Act is amended to require a corporation to include in income the selling price of a Canadian mining or oil right as it becomes receivable, rather than including (as previously) the entire selling price in the year of the sale. This amendment is required in order to adapt the section to "delay rental" arrangements, which are common in the oil industry and under which the full selling price is not known at the time of the sale.

Subsection 2. Subsection 3 of section 59 of the Act is amended to correct an anomaly which would have allowed a corporation to benefit more than once from the transitional rule by which only a portion of the selling price for a Canadian mining right owned at December 31, 1971 is included in income. Previously a corporation which owned such a right at December 31, 1971 could sell it, reacquire it and sell it again and obtain the special treatment for both sales; the amendment restricts the beneficial treatment to a corporation which has owned the property without interruption from December 31, 1971 until its sale.

Subsection 3. This amendment to subsection 4 of section 59 of the Act is complementary to the amendment to subsection 1 of section 59 of the Act.

Subsection 4. Subsection 5 of section 59 of the Act is re-enacted to provide definitions for certain expressions used in the other amendments to section 59 of the Act.

SECTION 26. Clause *b* of subsection 1 of section 60 of the Act, which permits a deduction from income in respect of expenses of certain appeals, is amended to allow the deduction of expenses of appeals in relation to a decision of the Unemployment Insurance Commission, a board of referees or an umpire under the *Unemployment Insurance Act, 1971* (Canada).

SECTION 27.—Subsection 1. Subsection 1 of section 61 of the Act is amended to make it clear that the reserve allowed under that section will not be permitted for amounts (from the sale of Canadian mining and oil rights) which have become due before the end of the fiscal year even though they may still be receivable.

Subsection 2. Complementary to the amendment in subsection 7 of section 28 of this Bill.

SECTION 28.—Subsection 1. This amendment to subsection 2 of section 63 of the Act will terminate effective May 7th, 1974 the special deduction of drilling costs of salt and potash corporations. This amendment is complementary to the amendment in subsection 12 of this section of this Bill by which such corporations will be treated as "principal business corporations".

Subsection 2. Clause *b* of subsection 3*a* of section 63 is amended to correct a typographical error.

the property on the 31st day of December, 1971 and thereafter without interruption until the disposition thereof.

- (3) Subsection 4 of the said section 59 is amended by ^{s. 59 (4),} amended striking out "clauses *b* and *c* of subsection 3" in the first line and inserting in lieu thereof "this section" and by striking out "any amount receivable as consideration for the" in the second and third lines and inserting in lieu thereof "proceeds of".
- (4) Subsection 5 of the said section 59 is repealed and the ^{s. 59 (5),} re-enacted following substituted therefor:

(5) In this section, "disposition" and "proceeds of disposition" have the meanings given to those expressions by ^{"disposition" and "proceeds of disposition"} section 56.

- 26.** Clause *b* of subsection 1 of section 60 of the said Act is ^{s. 60 (1) (b),} re-enacted repealed and the following substituted therefor:

(*b*) amounts paid by the corporation in the fiscal year ^{Expenses of} in respect of fees or expenses incurred in preparing, ^{objection or} instituting or prosecuting an objection to, or an ^{appeal} appeal in relation to,

(i) an assessment of tax, interest or penalties under this Act or the *Income Tax Act* ^{1970-71,} (Canada), or ^{c. 63 (Can.)}

(ii) a decision of the Unemployment Insurance Commission, a board of referees or an umpire under the *Unemployment Insurance Act*, ^{1970-71-72,} 1971 (Canada). ^{c. 48 (Can.)}

- 27.—**(1) Subsection 1 of section 61 of the said Act is amended by ^{s. 61 (1),} amended striking out "receivable" in the thirteenth line and in the fifteenth line and inserting in lieu thereof in each instance "due".

- (2) Clause *a* of subsection 1 of the said section 61 is amended ^{s. 61 (1) (a),} amended by inserting after "59" in the first line "or clause *a* of subsection 10*b* of section 63".

- 28.—**(1) Subsection 2 of section 63 of the said Act is amended by ^{s. 63 (2),} amended inserting after "year" in the ninth line "and before the 7th day of May, 1974".

- (2) Clause *b* of subsection 3*a* of the said section 63, as ^{s. 63 (3*a*) (b),} amended enacted by the Statutes of Ontario, 1974, chapter 75,

section 5, is amended by striking out "section" in the fourth line and inserting in lieu thereof "subsection".

s. 63 (3a)
(b) (ii),
amended

- (3) Subclause ii of clause *b* of subsection 3a of the said section 63 is amended by striking out "section 100" in the second line and inserting in lieu thereof "sections 100 and 100a".

s. 63 (5),
amended

- (4) Subsection 5 of the said section 63 is amended by striking out "acquired from another principal-business corporation" in the third and fourth lines and inserting in lieu thereof "acquired, by purchase or otherwise, including an acquisition as the result of an amalgamation described in subsection 1 of section 81, from another principal-business corporation".

s. 63 (6),
amended

- (5) Subsection 6 of the said section 63 is amended by striking out "acquired from a corporation" in the third line and inserting in lieu thereof "acquired by purchase or otherwise, including an acquisition as a result of an amalgamation described in subsection 1 of section 81, from another corporation".

s. 63 (10),
re-enacted

- (6) Subsection 10 of the said section 63, as amended by the Statutes of Ontario 1974, chapter 75, section 5, is repealed and the following substituted therefor:

Limitation

(10) Except as otherwise provided in this section, where a corporation has incurred an outlay or expense in respect of which a deduction from income is authorized under more than one provision of this section, the corporation is not entitled to make the deduction under more than one provision but is entitled to select the provision under which to make the deduction.

s. 63,
amended

- (7) The said section 63, as amended by the Statutes of Ontario, 1973, chapter 157, section 17, and 1974, chapter 75, section 5, is further amended by adding thereto the following subsection:

Unitized
oil or gas
field in
Canada

(10b) Where, pursuant to an agreement between a corporation and another person to unitize an oil or gas field in Canada, an amount has become receivable by the corporation at a particular time after the 6th day of May, 1974 from that other person in respect of Canadian exploration and development expenses incurred by the corporation, or expenses that would have been Canadian exploration and development expenses if they had been incurred by it after 1971, in respect of that field or any part thereof, the following rules apply,

Subsection 3. Complementary to the enactment of section 100*a* of the Act by section 54 of this Bill. The reference here to section 100*a* of the Act will mean that dividends from foreign affiliates must be deducted in determining the amount of income from which Ontario exploration and development expenses may be deducted.

Subsection 4. Subsection 5 of section 63 is amended to allow a mining or oil corporation which was formed by the amalgamation of similar corporations to carry forward and deduct the Canadian exploration and development expenses acquired from its predecessor corporations.

Subsection 5. Subsection 6 of section 63 is amended to allow Canadian exploration and development expenses to be carried forward through a second amalgamation and to be deducted by the corporation acquiring those expenses as a result of the second amalgamation.

Subsection 6. Subsection 10 of section 63 is amended for the purpose of clarification. This amendment adds a reference to "an outlay" because some items included in Canadian exploration and development expenses are of a capital nature.

Subsection 7. Subsection 10*b* is added to section 63 of the Act to require a corporation to include in income amounts receivable for Canadian exploration and development expenses under an agreement to unitize a Canadian oil or gas field, and to allow the deduction, as a drilling or exploration expense, any amounts payable for such expenses by a corporation under such an agreement.

Subsection 8. Subclause *i* of clause *a* of subsection 12 of section 63 is amended to correct an erroneous reference.

Subsection 9. This provision amends the definition of "Canadian exploration and development expenses" to include therein an annual payment for the preservation of Canadian resource properties. Subclause *va* is added to clause *b* of subsection 12 of section 63 to include in "exploration and development expense" annual payments for the preservation of Canadian resource property, including Canadian oil or gas properties.

Subsection 10. Subclause *vi* of clause *c* of subsection 12 of section 63 of the Act is amended to exclude from the definition of "Canadian resource property" those mining, oil or gas rights that are property of a trust, and to include in that definition a right to receive the proceeds from the sale of mining, oil or gas rights.

Subsection 11. The definition of "drilling or exploration expense" is amended by deleting the reference to the annual payments for the preservation of Canadian oil or gas properties. This amendment is complementary to the amendment in subsection 9 of this section of this Bill.

(a) there shall, at that time, be included in computing the corporation's income for the fiscal year the amount that became receivable by it; and

(b) there shall, at that time, be included by the other person, where that person is a corporation, in its drilling or exploration expense the amount that became payable by that corporation.

(8) Subclause i of clause *a* of subsection 12 of the said section 63 is amended by striking out "iii" in the first line and inserting in lieu thereof "ii". s. 63 (12) (a) (i),
amended

(9) Clause *b* of subsection 12 of the said section 63, as amended by the Statutes of Ontario, 1973, chapter 157, section 17, is further amended by striking out "and" at the end of subclause iv, by inserting "and" at the end of subclause v and by adding thereto the following subclause: s. 63 (12) (b),
amended

(va) any annual payment made by the corporation for the preservation of a Canadian resource property or property that would have been a Canadian resource property if it had been acquired by the corporation after 1971,

(10) Subclause vi of clause *c* of subsection 12 of the said section 63 is repealed and the following substituted therefor: s. 63 (12)
(c) (vi),
re-enacted

(vi) any right to or interest in any property, other than property of a trust, described in any of subclauses i to v, including a right to receive proceeds of disposition in respect of a disposition thereof.

(11) Clause *d* of subsection 12 of the said section 63 is repealed and the following substituted therefor: s. 63 (12) (d),
re-enacted

(d) "drilling or exploration expense" incurred on or in respect of exploring or drilling for petroleum or natural gas includes any expense incurred on or in respect of,

(i) drilling or converting a well for the disposal of waste liquids from a petroleum or natural gas well,

(ii) drilling for water or gas for injection into a petroleum or natural gas formation, or

- (iii) drilling or converting a well for the injection of water or gas to assist in the recovery of petroleum or natural gas from another well

s. 63 (12) (f),
amended

- (12) Clause *f* of subsection 12 of the said section 63 is amended by striking out "or" at the end of subclause v, by striking out "and" at the end of subclause vi and inserting in lieu thereof "or" and by adding thereto the following subclause:

- (vii) production or marketing of sodium chloride or potash, or whose business includes manufacturing of which involves processing sodium chloride or potash; and

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s. 66 (5),
re-enacted

- 29.** Subsection 5 of section 66 of the said Act is repealed and the following substituted therefor:

Idem

(5) Where in a fiscal year of a corporation property of the corporation has been appropriated in any manner whatever to, or for the benefit of, a shareholder, on the winding up of the corporation, the following rules apply,

- (a) for the purpose of computing the corporation's income for the fiscal year,

- (i) it shall be deemed to have sold each such property immediately before the winding up and to have received therefor the fair market value thereof at that time, and

- (ii) clause *c* of subsection 2 of section 42 shall not apply in computing the loss, if any, from the sale of any such property;

- (b) the shareholder shall be deemed to have acquired the property at a cost equal to its fair market value immediately before the winding up; and

- (c) subsections 1, 1*a* and 2 of section 54 are not applicable for the purposes of determining the cost to the shareholder of the property.

Idem

(6) Where a corporation that operates an oil or gas well or a mineral resource in Canada disposes of any petroleum, natural gas or related hydrocarbons or metal or industrial minerals produced in the operation of such well or resource to,

- (a) Her Majesty in right of Canada or a province;

Subsection 12. The definition of "principal business corporation" is amended to include corporations which produce, process or market salt or potash.

SECTION 29. Subsection 5 of section 66 of the Act is re-enacted to permit a corporation which is winding up to claim a loss based on fair market value when it distributes property to a shareholder; subsections 6 and 7 are added to the said section 66 to require that mining, oil or gas corporations use fair market values in calculating their income from the sale of minerals, oil or gas to the Crown or its agent, and in calculating their cost of minerals, oil or gas acquired from the Crown or its agent, in cases where the sale price is less than the fair market value or where the agreed cost of acquisition is greater than the fair market value; subsections 8, 9 and 10 are added to the said section 66 to clarify the meaning of certain expressions used in these amendments.

- (b) an agent of Her Majesty in right of Canada or a province; or
- (c) a corporation, commission or association that is controlled, directly or indirectly in any manner whatever, by Her Majesty in right of Canada or a province or by an agent of Her Majesty in right of Canada or a province,

for no proceeds of disposition or for proceeds of disposition less than the fair market value thereof at the time the corporation so disposes of it, the corporation shall be deemed to have received proceeds of disposition therefor equal to that fair market value determined, in circumstances where the corporation is required by a law or contract to so dispose thereof, without regard to that law or contract.

(7) Where a corporation that operates an oil or gas well ^{Idem} or a mineral resource in Canada acquires any petroleum, natural gas or related hydrocarbons or metal or industrial minerals produced in the operation of such well or resource from,

- (a) Her Majesty in right of Canada or a province;
- (b) an agent of Her Majesty in right of Canada or a province; or
- (c) a corporation, commission or association that is controlled, directly or indirectly in any manner whatever, by Her Majesty in right of Canada or a province or by an agent of Her Majesty in right of Canada or a province,

for an amount in excess of the fair market value thereof at the time the corporation so acquired the petroleum, natural gas or related hydrocarbons or metal or industrial minerals, the corporation shall be deemed to have acquired the petroleum, natural gas or related hydrocarbons or metal or industrial minerals at that fair market value determined, in circumstances where the corporation is required by a law or contract to so acquire the petroleum, natural gas or related hydrocarbons or metal or industrial minerals, without regard to that law or contract.

(8) For the purposes of subsection 6, the fair market value ^{Fair market value of resource output disposed of to Crown} at the time of disposition of a unit of any particular quantity of petroleum, natural gas or related hydrocarbons or metal or industrial minerals disposed of by the corporation referred to in that subsection to a person referred to in any of clauses *a* to *c* of that subsection shall be deemed to be the amount by which,

- (a) the average proceeds of disposition that became receivable in the month that included that time by that person for the disposition of a like unit from a person other than a person referred to in any of clauses *a* to *c* of subsection 6,

exceeds

- (b) the average aggregate of all expenses, including depreciation, incurred by that person in respect of that month for each such unit that may reasonably be attributed to transmitting, transporting, marketing or processing thereof to the extent that such expenses are reasonable and necessary and do not include any cost of acquisition thereof.

Fair market value of resource output acquired from Crown

(9) For the purposes of subsection 7, the fair market value of a unit of any particular quantity of petroleum, natural gas or related hydrocarbons or metal or industrial minerals acquired by the corporation referred to in that subsection from a person referred to in any of clauses *a* to *c* of that subsection shall be deemed to be equal to the amount, if any, paid or payable by the corporation to that person in respect of that unit.

Certain persons deemed to be the same person

(10) For the purposes of subsection 8, where a person referred to in any of clauses *a* to *c* of subsection 6 disposes of a unit of any particular quantity of petroleum, natural gas or related hydrocarbons or metal or industrial minerals to another person referred to in any of those clauses, those persons shall be deemed to be the same person.

s. 67 (4), re-enacted

30.—(1) Subsection 4 of section 67 of the said Act, as enacted by the Statutes of Ontario, 1973, chapter 157, section 18, is repealed and the following substituted therefor:

Debt deemed not to be income debt
R.S.C. 1970, c. G-16

(4) Where a cash purchase ticket or other form of settlement prescribed pursuant to the *Canada Grain Act* or by the Minister is issued to a corporation in respect of grain delivered in a fiscal year of a corporation to a primary elevator or process elevator and such ticket or other form of settlement entitles the holder thereof to payment by the operator of the elevator of the purchase price, without interest, stated in the ticket for the grain at a date that is after the end of that fiscal year, the amount of the purchase price stated in the ticket or other form of settlement shall, notwithstanding any other provision of this section, be included in computing the income of the corporation to which the ticket or other form of settlement was issued for its fiscal year immediately

SECTION 30.—Subsection 1. The provision which defers for one year the inclusion in income of receipts issued for grain delivered to storage elevators is extended to include receipts for grain delivered to processing elevators.

Subsection 2. Complementary to subsection 1.

SECTION 31. Clause *a* of section 68 is amended to extend the present provision, which permits the deferral of a gain or loss on a bond conversion, to those bonds which did not have the conversion privilege at the time they were issued.

SECTION 32. Section 74*a* of the Act is amended by removing therefrom the exception relating to foreign affiliates—paragraphs *c* and *d* of subsection 4 of section 80.1 of the *Income Tax Act* (Canada) will now be applicable and a corporation will now be able to deduct from income certain dividends received in kind from a foreign affiliate and reduce the cost of shares in the foreign affiliate by the same amount. This amendment is complementary to the other amendments in this Bill relating to foreign accrual property income.

SECTION 33. This amendment is complementary to the amendments in subsection 2 of section 4 and subsection 1 of section 7 of this Bill. The new section 74*b* of the Act, enacted by this section of the Bill, makes it clear that where a mining, oil or gas corporation leases the lands from the owner thereof and reimburses the owner for the amounts referred to in the amendments in subsection 2 of section 4 and subsection 1 of section 7 of this Bill, the said amendments shall apply to the reimbursements paid by the corporation and not to the amount (the extent reimbursed) paid by the owner.

following the fiscal year in which the grain was delivered and not for the fiscal year in which the grain was delivered.

- (2) Subsection 5 of the said section 67, as enacted by the Statutes of Ontario, 1973, chapter 157, section 18, is amended by striking out "and 'primary elevator'" in the second line and inserting in lieu thereof "'primary elevator' and 'process elevator'". s. 67 (5),
amended

- 31.** Clause *a* of section 68 of the said Act is repealed and the following substituted therefor: s. 68 (a),
re-enacted

- (a) the terms of the bond for which it was exchanged conferred upon the holder thereof the right to make the exchange; and
-

- 32.** Section 74*a* of the said Act, as enacted by the Statutes of Ontario, 1973, chapter 157, section 20, is amended by striking out "except paragraphs *c* and *d* of subsection 4 thereof" in the eleventh line. s. 74*a*,
amended

- 33.** The said Act is further amended by adding thereto the following section: s. 74*b*,
enacted

74*b*. Where pursuant to a contract between a corporation and another person, in this section referred to as the "payee", any amount is paid or payable by the corporation or any property is transferred by the corporation to the payee as reimbursement in respect of any amount paid or payable referred to in clause *n* of subsection 1 of section 22 or the fair market value of any property paid or payable referred to in that clause by the payee to any of the persons referred to in any of subclauses *i* to *iii* of clause *n* of subsection 1 of section 22, for the purposes of this Act the following rules apply, Reimbursement by
corporation for payment
to Crown deemed
paid direct to Crown

- (a) the corporation shall be deemed to have paid the amount or property, as the case may be, to a person or persons referred to in any of those subclauses;
- (b) the payee shall, to the extent of that reimbursement, be deemed not to have paid an amount or property, as the case may be;
- (c) the payee shall be deemed not to have received any reimbursement from the corporation; and
- (d) clause *o* of subsection 1 of section 16 shall not apply in respect of the amount or property paid or payable, as the case may be.

s. 75 (1) (c),
amended

34.—(1) Clause *c* of subsection 1 of section 75 of the said Act is amended by striking out “by it” in the second line.

s. 75 (2) (b),
amended

(2) Clause *b* of subsection 2 of the said section 75 is amended by adding thereto the following subclause:

(iii) “income derived from the operation of a mine” includes the income of a corporation from the processing, to the primary metal stage or its equivalent, of ore from a mineral resource owned by the corporation.

s. 78 (7),
amended

35. Subsection 7 of section 78 of the said Act is amended by inserting after “section” in the first line “or section 78a”.

s. 78a,
enacted

36. The said Act is further amended by adding thereto the following section:

Deemed
dividend
on repay-
ment of
debt

78a.—(1) Where, at any time before a particular time and after the 18th day of November, 1974, a corporation incurred any debt as consideration for the purchase of shares of the capital stock of a second corporation and, at any time before the particular time,

(a) at any time before the debt was incurred, any particular person, or the group of persons to whom the debt was owed at the time it was incurred,

(i) controlled the second corporation, directly or indirectly in any manner whatever, or

(ii) beneficially owned shares of the capital stock of the second corporation representing more than 50 per cent of its paid-up capital; and

(b) at any time before the particular time, the particular person or group of persons referred to in clause *a*,

(i) controlled the corporation, directly or indirectly in any manner whatever,

(ii) beneficially owned shares of the capital stock of the corporation representing more than 50 per cent of its paid-up capital, or

(iii) held an amount of debt payable by the corporation that exceeded the paid-up capital of the corporation, at a time when shares of the capital stock of the corporation representing more than 50 per cent of its paid-up capital were beneficially owned by,

SECTION 34.—Subsection 1. Clause *c* of subsection 1 of section 75 of the Act is amended to extend the present exemption of Canadian income earned by foreign operators of ships and aircraft engaged in international traffic to those foreign corporations which own but do not operate such ships and aircraft.

Subsection 2. This amendment will make it clear that the income from a new mine, the exemption for which was terminated as of December 31st, 1973, includes income from the processing of ore to the primary metal stage.

SECTION 35. Subsection 7 of section 78, which provides the rule to determine when a deemed dividend is deemed to have become payable, is amended to apply to the deemed dividend referred to in section 78*a* as enacted by section 36 of this Bill.

SECTION 36. A new section 78*a* of the Act is enacted to treat as a deemed dividend an excessive amount repaid by a corporation on a debt which was originally incurred to purchase the over-valued shares of another corporation if the creditor controls both corporations.

- (A) that particular person,
- (B) that group of persons,
- (C) persons related to the particular person or any member of the group of persons, or
- (D) any combination of persons referred to in sub-subclause A, B or C,

the following rules apply,

- (c) where the corporation has, at the particular time, made any payment on account of that debt, or any other debt substituted for that debt,

- (i) a dividend shall be deemed to have been paid by the corporation at the particular time equal to the lesser of,

- (A) the amount of that payment, and

- (B) the amount, if any, by which,

- 1. the aggregate of the payment referred to in sub-subclause A and all payments made before the particular time on account of that debt, or any other debt substituted therefor,

exceeds

- 2. the debt limit of the corporation in respect of that debt,

- (ii) a dividend shall be deemed to have been received at the particular time, by each person who received any portion of that payment, equal to that proportion of the dividend so deemed to have been paid by the corporation at that time that the portion of that payment received by that person is of the amount of that payment, and

- (iii) section 77, except clause c of subsection 1 of section 77, shall be applicable to the dividend referred to in subclause i as though the persons referred to in subclause ii were shareholders of a class of shares of the capital stock of the corporation; and

(d) where any portion of that debt or any debt substituted for that debt, is converted into shares of the capital stock of the corporation, an amount equal to the lesser of,

(i) the portion of that debt, or any debt substituted for that debt, that was so converted, and

(ii) the amount, if any, by which,

(A) the amount of the debt owed by the corporation at the time it was incurred,

exceeds

(B) the debt limit of the corporation in respect of that debt,

shall be added to the aggregate of the amounts determined under subclause *iva* of clause *d* of subsection 1 of section 83 at any time after the time of the conversion.

Debt limit
defined

(2) For the purposes of this section, the "debt limit" of a corporation in respect of any debt incurred by it as consideration for the purchase of shares of the capital stock of a second corporation shall be the amount, if any, by which,

(a) the amount of the debt owed by the corporation at the time it was incurred,

exceeds

(b) the amount if any, by which the aggregate of,

(i) the amount of the debt owed by the corporation at the time it was incurred, and

(ii) the fair market value, at the time the debt was incurred, of any other consideration, other than shares of the capital stock of the corporation, given by the corporation for the purchase of the shares of the capital stock of the second corporation,

exceeds the lesser of,

(iii) the paid-up capital limit of the second corporation at the time the debt was incurred, and

SECTION 37. A new section 78*b* of the Act is enacted to allow a corporation an alternative method of valuing shares or debt issued before November 19, 1974, provided the corporation notifies the Minister of its intention before July, 1976.

SECTION 38.—Subsection 1. Subsection 1 of section 79 of the Act, relating to transfers of property to a controlled corporation, is amended to extend the eligibility for deferral of realization of capital gains or losses to cases where the transferor receives shares or other consideration (the requirement that the transferor own 80 per cent of the shares is removed) and to restate the property to which the deferral will apply, so that it will apply to inventory and to Canadian mining, gas or oil properties acquired before 1972, but will not apply to real estate and options thereon owned by non-residents.

- (iv) the paid-up capital, at the time the debt was incurred, of the shares of the capital stock of the second corporation so purchased.

37. The said Act is further amended by adding thereto the following section: s. 78b,
enacted

- 78b. Where a corporation has at any particular time before July, 1976, notified the Minister in writing that it wishes, Special
rules
relating to
shares
issued or
debt
incurred
before
November 19,
1974
- (a) to have subclause *iva* of clause *d* of subsection 1 of section 83 apply to all shares, if any, issued by it before the 19th day of November, 1974; and
- (b) to have section 78a apply to all debt, if any, incurred by it before the 19th day of November, 1974,

the following rules apply,

- (c) subsection 6 of section 83 shall not apply for the purposes of computing the paid-up capital deficiency of the corporation at any time after the particular time;
- (d) section 78a shall be read without reference to "and after the 18th day of November, 1974";
- (e) the amount of any dividend that the corporation would, by virtue of clause *c* of subsection 1 of section 78a, be deemed to have paid in respect of payments, before the particular time, of or on account of any debt incurred by the corporation prior to the 19th day of November, 1974, or any debt substituted for that debt, shall be deemed to be nil;
- (f) subclause *iii* of clause *b* of subsection 2 of section 78a shall be read as "the paid-up capital limit of the second corporation at the time the debt was incurred or on the 18th day of November, 1974, where that day is later"; and
- (g) subclause *iv* of clause *b* of subsection 2 of section 78a shall be read as "the paid-up capital, at the time the debt was incurred, of the shares of the second corporation so purchased (on the assumption that clause *c* of subsection 1 of section 83 applied at that time).

38.—(1) Subsection 1 of section 79 of the said Act, as amended s. 79 (1),
amended by the Statutes of Ontario, 1973, chapter 157, section 21,

is further amended by striking out all that portion thereof immediately preceding clause *a* and inserting in lieu thereof the following:

(1) Where a person has, after the 6th day of May, 1974, disposed of any property that was a capital property (other than real property or an option in respect thereof owned by a non-resident person), an eligible capital property, an inventory other than real property or a property referred to in subsection 2 of section 59 of the person to a Canadian corporation for consideration including shares of the capital stock of the corporation, if the person and the corporation, have jointly so elected in prescribed form and within the prescribed time, the following rules apply:

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s. 79 (1),
amended

(2) Subsection 1 of the said section 79 is further amended by adding thereto the following clause:

(*ca*) where the property was inventory or capital property (other than depreciable property of a prescribed class) of the person and the amount that the person and the corporation have agreed upon in their election in respect of the property is less than the lesser of,

(i) the fair market value of the property at the time of the disposition, and

(ii) the cost amount to the person of the property at the time of the disposition,

the amount so agreed upon shall, irrespective of the amount actually so agreed upon by them, be deemed to be an amount equal to the lesser of the amounts described in subclauses i and ii.

s. 79 (1) (*d*),
amended

(3) Clause *d* of subsection 1 of the said section 79 is amended by striking out "and notwithstanding clauses *b* and *c*" in the fourteenth line.

s. 79 (1) (*e*),
amended

(4) Clause *e* of subsection 1 of the said section 79 is amended by striking out "and notwithstanding clauses *b* and *c*" in the fourteenth line.

s. 79 (1),
amended

(5) Subsection 1 of the said section 79 is further amended by adding thereto the following clauses:

(*ea*) where two or more properties, each of which is a property described in clause *d* or each of which is a property described in clause *e*, are disposed of at

Subsection 2. Clause *ca* added to subsection 1 of section 79 of the Act to provide the rule for determining the value at which certain capital property and inventory are transferred to a corporation, where the value agreed between the transferor and the corporation is less than both the cost and fair market value.

Subsections 3 and 4. Complementary to subsection 1, clauses *b* and *c* will now apply to the transfers of goodwill and depreciable property if these assets are transferred for consideration other than shares.

Subsection 5. The new clauses added by this amendment provide new rates to determine the value of property transferred to a corporation by its shareholders in certain cases.

the same time, clause *d* or *e*, as the case may be, applies as if each property so disposed of had been separately disposed of in the order designated by the person before the time prescribed for the filing of an election in respect of those properties or, if the person does not so designate any such order, in the order designated by the Minister;

(*eb*) where the fair market value of the property at the time of the disposition exceeds the greater of,

- (i) the fair market value at the time of the disposition of the consideration received by the person for the property disposed of by him, and
- (ii) the amount that the person and the corporation have agreed upon in their election in respect of the property, determined without reference to this clause,

and it is reasonable to regard any portion of such excess as a gift made by the person to or for the benefit of any other shareholder of the corporation, the amount that the person and the corporation have agreed upon in their election in respect of the property shall, irrespective of the amount actually so agreed upon by them, be deemed (except for the purposes of clauses *g* and *h*) to be an amount equal to the aggregate of,

(iii) the amount referred to in subclause ii, and

(iv) the portion of such excess that may reasonably be regarded as a gift made by the person to or for the benefit of any other shareholder of the corporation;

(*ec*) where, under any of clauses *ca*, *d* and *e*, the amount that the person and the corporation have agreed upon in their election in respect of the property, in this clause referred to as "the elected amount", would be deemed to be an amount that is greater or less than the amount that would be deemed to be the elected amount under clause *b*, the elected amount shall be deemed to be the greater of,

- (i) the amount deemed by clause *ca*, *d* or *e*, as the case may be, to be the elected amount, and

(ii) the amount deemed by clause *b* to be the elected amount.

s. 79 (1) (i),
re-enacted

(6) Clause *i* of subsection 1 of the said section 79 is repealed and the following substituted therefor:

(i) where the property so disposed of is taxable Canadian property of the person, all of the shares of the capital stock of the Canadian corporation received by him as consideration therefor shall be deemed to be taxable Canadian property of the person.

s. 79 (2),
re-enacted

(7) Subsection 2 of the said section 79, as amended by the Statutes of Ontario, 1973, chapter 157, section 21, is repealed and the following substituted therefor:

Transfer of
property to
corporation
from
partnership

(2) Where, after the 6th day of May, 1974,

(a) a partnership has disposed of any partnership property that was a capital property (other than real property or an interest therein owned by a partnership that was not a Canadian partnership at the time of the disposition), an eligible capital property, an inventory other than real property or a property referred to in subsection 2 of section 59 of the partnership to a Canadian corporation for consideration, including shares of the capital stock of the corporation; and

(b) the corporation and all the members of the partnership have jointly so elected in prescribed form and in prescribed time,

clauses *a* to *i* and subsection 1*a* are applicable in respect of the disposition *mutatis mutandis* as if the partnership were a person resident in Canada who had disposed of the property to the corporation.

s. 79 (2*a*),
repealed

(8) Subsection 2*a* of the said section 79, as enacted by the Statutes of Ontario, 1973, chapter 157, section 21, is repealed.

s. 79 (4),
re-enacted

(9) Subsection 4 of the said section 79 is repealed and the following substituted therefor:

Where
loss from
disposition
of property
to controlled
corporation

(4) Where a person or a partnership has, after May 6, 1974, disposed of any capital property or eligible capital property of the person or partnership to a corporation that, immediately after the disposition, was controlled, directly or indirectly in any manner whatever, by the person or partner-

Subsection 6. This amendment in effect provides a deferral of the realization of a capital gain on the transfer of taxable Canadian property to a corporation by a non-resident person in consideration for shares of the corporation.

Subsection 7. Subsection 2 of section 79 of the Act is re-enacted to provide that the rules provided in subsection 1 of the said section 79, as amended by this Bill, and section 1a of the said section 79, with respect to transfers from individuals to corporations, shall apply to transfers of assets from partnerships to corporations.

Subsection 8. Complementary to subsection 7.

Subsection 9. Subsection 4 of section 79 of the Act is re-enacted to state in greater detail the rules by which a controlling shareholder will not be allowed to realize any capital losses on the transfer of his business assets to the corporation but is required instead to increase the cost of his shares of the corporation. The amendment retains the existing rules and adds specific rules for the treatment of terminal losses of goodwill on the transfer.

ship, or where the person is an individual by the spouse of such person, or by another person or group of persons by whom the person or partnership was controlled, directly or indirectly in any manner whatever and, but for this subsection, subsection 2 of section 28 and clauses *c* and *e* of subsection 2 of section 42, the person or partnership would have had a capital loss therefrom or a deduction pursuant to clause *a* of subsection 1 of section 28 in computing the income of the person or partnership for the fiscal year in which the person or partnership ceased to carry on a business, as the case may be, the following rules apply,

- (a) notwithstanding section 28 and clauses *c* and *e* of subsection 2 of section 42, the capital loss therefrom of the person or partnership, or the deduction pursuant to clause *a* of subsection 1 of section 28 in computing the income of the person or partnership for the fiscal year in which the person or partnership ceased to carry on the business, as the case may be, otherwise determined shall be deemed to be nil; and
- (b) in computing the adjusted cost base to the person or partnership of all shares of any particular class of the capital stock of the corporation owned by the person or partnership immediately after the disposition, there shall be added, in the case of capital property, the amount that is equal to, and in the case of eligible capital property, twice the amount that is equal to, that proportion of the amount, if any, by which,
 - (i) the cost amount to the person or partnership immediately before the disposition, of the property so disposed of,

exceeds

- (ii) the proceeds to the person or partnership of disposition of the property or where the property was an eligible capital property, the eligible capital amount for the person or partnership, within the meaning assigned by section 18, as a result of the disposition of that property,

that

- (iii) the fair market value, immediately after the disposition, of all shares of that class so owned by the person or partnership,

is of

- (iv) the fair market value, immediately after the disposition, of all shares of the capital stock of the corporation so owned by the person or partnership.

s. 79a,
enacted

39. The said Act is further amended by adding thereto the following section:

Share for
share
exchange

79a.—(1) Where shares of any particular class, of the capital stock of a Canadian corporation, in this section referred to as the “purchaser”, have, after the 6th day of May, 1974, been acquired by a person, in this section referred to as the “vendor”, from the purchaser in exchange for capital property of the vendor that is shares of any particular class of the capital stock, in this section referred to as the “exchanged shares”, of another corporation, in this section referred to as the “acquired corporation”, subject to subsection 2, the following rules apply,

- (a) except where the vendor has, in his return of income for the fiscal year in which the exchange occurred, included in computing his income for that year any portion of the gain or loss, otherwise determined, from the disposition of the exchanged shares, the vendor shall be deemed,
 - (i) to have disposed of the exchanged shares for proceeds of disposition equal to the adjusted cost base to him of those shares immediately before the exchange, and
 - (ii) to have acquired the shares of the purchaser at a cost to him equal to the adjusted cost base to him of the exchanged shares immediately before the exchange,

and where the exchanged shares were taxable Canadian property of the vendor, the shares of the purchaser so acquired by him shall be deemed to be taxable Canadian property of the vendor; and

- (b) the cost to the purchaser of each exchanged share, at any particular time up to and including the time he disposed of such share, shall be deemed to be,
 - (i) its fair market value immediately before the exchange if, at the particular time or at any earlier time after the exchange, the purchaser owned shares of the capital stock of the acquired corporation,

SECTION 39. This amendment adds a new section 79a to the Act to permit a deferral in the realization of gains or losses in certain situations where a person exchanges shares of one corporation for shares of a Canadian corporation. In addition, certain provisions of the *Income Tax Act* (Canada) are made applicable with respect to certain dispositions of the shares of a foreign affiliate.

(A) to which are attached not less than 10 per cent of all the votes that could then be cast for any and all purposes by holders of all shares of the capital stock of the acquired corporation, and

(B) that represent not less than 10 per cent of the fair market value of all issued and outstanding shares of the capital stock of the acquired corporation, and

(ii) in any other case, nil.

(2) Subsection 1 does not apply where,

Where subs. 1
not to apply

(a) the vendor and purchaser were, immediately before the exchange, not dealing with each other at arm's length;

(b) the vendor or persons with whom he did not deal at arm's length, or the vendor together with persons with whom he did not deal at arm's length,

(i) controlled, directly or indirectly in any manner whatever, the purchaser, or

(ii) beneficially owned shares of the capital stock of the purchaser representing more than 50 per cent of its paid-up capital,

immediately after the exchange;

(c) the vendor and the purchaser have filed an election under subsection 1 or 2 of section 79 with respect to the exchanged shares; or

(d) consideration other than shares of the particular class of the capital stock of the purchaser was received by the vendor for the exchanged shares, notwithstanding that the vendor may have disposed of shares of the capital stock of the acquired corporation, other than the exchanged shares, to the purchaser for consideration other than shares of one class of the capital stock of the purchaser.

(3) Where a person has disposed of capital property that was shares of the capital stock of a foreign affiliate of the person to any corporation that was, immediately following the disposition, a foreign affiliate of the person, (in this sub-

Disposition
of shares
of foreign
affiliate

section referred to as the "acquiring affiliate") for consideration, including shares of the capital stock of the acquiring affiliate, the provisions of subsection 3 of section 85.1 of the *Income Tax Act* (Canada) apply for the purposes of this Act.

1970-71,
c. 63 (Can.)

s. 80,
re-enacted

Exchanges of
shares by a
shareholder
in course of
reorganiza-
tion of
capital

40.—(1) Section 80 of the said Act is repealed and the following substituted therefor:

80.—(1) Where, at a particular time after the 6th day of May, 1974, in the course of a reorganization of the capital of a corporation, a person has disposed of capital property that was all the shares of any particular class of the capital stock of the corporation that were owned by him at the particular time, in this section referred to as the "old shares", and property is receivable from the corporation therefor that includes other shares of the capital stock of the corporation, in this section referred to as the "new shares", the following rules apply,

- (a) the cost to the person of any property (other than shares of the capital stock of the corporation) receivable by him for the old shares shall be deemed to be its fair market value at the time of the disposition;
- (b) the cost to the person of any new shares of any class of the capital stock of the corporation receivable by him for the old shares shall be deemed to be that proportion of the amount, if any, by which the aggregate of the adjusted cost bases to him, immediately before the disposition, of the old shares exceeds the fair market value at that time of the consideration receivable therefor (other than shares of the capital stock of the corporation) that,
 - (i) the fair market value, immediately after the disposition, of those new shares of that class,
 is of,
 - (ii) the fair market value, immediately after the disposition, of all new shares of the capital stock of the corporation receivable by him for the old shares; and
- (c) the person shall be deemed to have disposed of the old shares for proceeds of disposition equal to the cost to him of all new shares and other property receivable by him for the old shares.

SECTION 40. The existing provisions with respect to exchanges of shares by a shareholder in the course of a corporation's reorganization of its capital structure are amended to make it easier for a corporation to reorganize its capital structure without tax consequences to its shareholders and to simplify the calculations of the cost of shares.

SECTION 41.—Subsection 1. This amendment allows a deferral of taxes on an amalgamation of corporations even though certain assets and liabilities (including inter-company accounts receivable and payable all of which are normally eliminated on an amalgamation) are not transferred. Previously, all assets had to be transferred.

Subsection 2. This amendment allows a new corporation formed as a result of an amalgamation to adopt in calculating its business or investment income the method used by its predecessor corporations in calculating their business or investment income.

(2) This section is applicable in any case where section Application 53 or any of subsections 1 to 3 of section 79 are applicable.

41.—(1) Clauses *a*, *b* and *c* of subsection 1 of section 81 of the s. 81 (1) (a-c), re-enacted said Act are repealed and the following substituted therefor:

(a) all of the property (except amounts receivable from any predecessor corporation or shares of the capital stock of any predecessor corporation) of the predecessor corporations immediately before the merger becomes property of the new corporation by virtue of the merger;

(b) all of the liabilities (except amounts payable to any predecessor corporation) of the predecessor corporations immediately before the merger become liabilities of the new corporation by virtue of the merger; and

(c) all of the shareholders (except any predecessor corporation) of the predecessor corporations immediately before the merger receive shares of the capital stock of the new corporation by virtue of the merger,

(2) Clause *c* of subsection 2 of the said section 81 is repealed s. 81 (2) (c), re-enacted and the following substituted therefor:

(c) in computing the income of the new corporation Method adopted for computing income for a fiscal year from a business or property,

(i) there shall be included any amount received or receivable (depending upon the method followed by the new corporation in computing its income for that year) by it in that year that would, if it had been received or receivable (depending upon the method followed by the predecessor corporation in computing its income for its last fiscal year) by the predecessor corporation in its last fiscal year, have been included in computing the income of the predecessor corporation for that year, and

(ii) there may be deducted any amount paid or payable (depending upon the method followed by the new corporation in computing

its income for that year) by it in that year that would, if it had been paid or payable (depending upon the method followed by the predecessor corporation in computing its income for its last fiscal year) by the predecessor corporation in its last fiscal year, have been deductible in computing the income of the predecessor corporation for that year.

s. 81 (2),
amended

- (3) Subsection 2 of the said section 81, as amended by the Statutes of Ontario, 1973, chapter 157, section 22, is further amended by adding thereto the following clause:

Depreciable
property
acquired
from
predecessor
corporation

- (*da*) for the purposes of this Act, where depreciable property, other than property of a prescribed class, has been acquired by the new corporation from a predecessor corporation, the new corporation shall be deemed to have acquired the property before 1972 at an actual cost equal to the actual cost thereof to the predecessor corporation, and the new corporation shall be deemed to have been allowed the aggregate of all amounts allowed to the predecessor corporation in respect of the property, under regulations made under clause *a* of subsection 1 of section 24, in computing the income of the predecessor corporation.

s. 81 (2) (*k*),
re-enacted

- (4) Clause *k* of subsection 2 of the said section 81 is repealed and the following substituted therefor:

Scientific
research

- (*k*) for the purposes of section 39,

- (i) an amount equal to the aggregate of all amounts each of which is the amount of an expenditure referred to in clause *a* of subsection 1 of section 39 made by a predecessor corporation shall, to the extent that it was not deducted by the predecessor corporation in computing its income for a fiscal year, be deemed to be an expenditure of a current nature on scientific research made in Canada by the new corporation in its first fiscal year,
- (ii) an amount equal to the aggregate of all amounts each of which is the amount of an expenditure referred to in subclause *i* of clause *b* of subsection 1 of section 39 made by a predecessor corporation shall, to the extent that it was not deducted by the

Subsection 3. This amendment provides for the transfer on an amalgamation of the costs and the undeducted balances of those costs of certain farming or fishing assets.

Subsection 4. These amendments allow the transfer to a new corporation formed as the result of an amalgamation of the undeducted balances of current scientific research expenditures incurred by a predecessor corporation (this amendment is complementary to the amendments contained in section 13 of this Bill) and allow the transfer to the new corporation of rights which its predecessor had to the deferral of realizations of capital gains in respect of property that has been lost, destroyed or expropriated (this amendment is complementary to the amendments contained in section 17 of this Bill).

predecessor corporation in computing its income for a fiscal year, be deemed to be an expenditure of a capital nature on scientific research made in Canada by the new corporation in its first fiscal year,

- (iii) an amount equal to the aggregate of all amounts each of which is the amount of an expenditure referred to in clause *c* of subsection 1 of section 39 made by a predecessor corporation shall, to the extent that it was not deducted by a predecessor corporation in computing its income for a fiscal year, be deemed to be an expenditure incurred by the new corporation in its first fiscal year by way of repayment of an amount paid to the new corporation under an *Appropriation Act* (Canada), and on terms and conditions described in clause *c* of subsection 1 of section 39,
- (iv) an amount equal to the aggregate of all amounts each of which is an amount paid to a predecessor corporation referred to in clause *d* of subsection 1 of section 39 shall be deemed to be an amount paid to the new corporation in its first fiscal year under an *Appropriation Act* (Canada) and on terms and conditions described in clause *c* of subsection 1 of section 39;
- (ka) if the amalgamation was after the 6th day of May, 1974 and a property of a predecessor corporation was lost, destroyed or taken under statutory authority prior to the amalgamation, sections 17 and 46 apply to the new corporation as though,
 - (i) the new corporation had been in existence and owned that property at the time it was so lost, destroyed or taken,
 - (ii) the cost or capital cost, as the case may be, of that property to the new corporation were its cost or capital cost, as the case may be, to the predecessor corporation, and
 - (iii) where the predecessor corporation had acquired a replacement property for that property before the amalgamation, the new corporation had acquired that replacement property immediately after the amalgamation.

Property
lost,
destroyed
or taken

s. 81 (2) (p),
amended

- (5) Clause *p* of subsection 2 of the said section 81 is amended by inserting after "time" in the third line "after the amalgamation".

s. 81 (2) (q),
amended

- (6) Clause *q* of subsection 2 of the said section 81 is amended by striking out all that portion thereof immediately preceding subclause i and inserting in lieu thereof the following:

1971 capital
surplus on
hand and
paid-up
capital
deficiency

- (q) for the purpose of computing the 1971 capital surplus on hand or the paid-up capital deficiency, as the case may be, of the new corporation at any time after the amalgamation, there shall be added to the aggregate of the amounts determined under subclause iv of clause *l* of subsection 1 of section 83, the amount, if any, by which,

s. 81 (2) (r),
amended

- (7) Clause *r* of subsection 2 of the said section 81 is amended by striking out all that portion thereof immediately preceding subclause i and inserting in lieu thereof the following:

Idem

- (r) for the purpose of computing the 1971 capital surplus on hand or the paid-up capital deficiency, as the case may be, of the new corporation at any time after the amalgamation, there shall be added to the aggregate of the amounts determined under subclause iii of clause *d* of subsection 1 of section 83 the amount, if any, by which,

s. 81 (2),
amended

- (8) Subsection 2 of the said section 81 is further amended by adding thereto the following clause:

Idem

- (ra) for the purpose of computing the 1971 capital surplus on hand or the paid-up capital deficiency, as the case may be, of the new corporation at any time after the amalgamation, there shall be added to the aggregate of the amounts determined under subclause iii of clause *d* of subsection 1 of section 83 the amount, if any, by which,

- (i) the paid-up capital of the new corporation immediately after the amalgamation,

exceeds

- (ii) the aggregate of amounts each of which is the paid-up capital in respect of a share

Subsection 5. This amendment corrects a typographical error.

Subsections 6, 7 and 8. These amendments provide a special procedure which a new corporation formed as a result of an amalgamation must use in calculating the values for its shares and its retained earnings to ensure that these values reflect the values of its predecessors.

Subsection 9. This amendment is complementary to the amendments in subsection 6 of section 43 of this Bill.

Subsection 10. This amendment provides that certain provisions of the *Income Tax Act* (Canada) are applicable where shares of a foreign affiliate are acquired as a result of an amalgamation of Canadian corporations.

Subsection 11. Clause *w* of subsection 2 of section 81 of the Act is amended to simplify the calculation of the capital dividend account of a new corporation at any time after an amalgamation, whereby the balances of the predecessors' capital dividend accounts are added to the capital dividend account of the new corporation.

Subsection 12. Complementary to the amendments in section 43 of this Bill.

Subsections 13, 14 and 15. These provisions amend the existing provisions for deferral of realizations of gains and losses on shares of a corporation being amalgamated to allow similar deferrals with respect to options to shares and securities issued by the corporation. In addition certain provisions of the *Income Tax Act* (Canada) are made applicable where there is a merger of a foreign affiliate with another corporation and the resulting corporation becomes a foreign affiliate of the taxpayer corporation.

(except a share held by any other predecessor corporation) of the capital stock of a predecessor corporation immediately before the amalgamation.

- (9) Clause *s* of subsection 2 of the said section 81 is amended <sup>s. 81 (2) (s),
amended</sup> by striking out "vii" in the fourth line and inserting in lieu thereof "xiv".
- (10) Subsection 2 of the said section 81 is further amended <sup>s. 81 (2),
amended</sup> by adding thereto the following clause:
- (sa) where one or more shares of the capital stock <sup>Shares of
foreign
affiliate</sup> of a foreign affiliate of a predecessor corporation have, by virtue of the amalgamation, been acquired by the new corporation and as a result thereof the affiliate has become a foreign affiliate of the new corporation, the provisions of paragraph *u* of subsection 2 of section 87 of the *Income Tax Act* (Canada) <sup>1970-71,
c. 63 (Can.)</sup> apply for the purposes of this Act.
- (11) Clause *w* of subsection 2 of the said section 81 is repealed <sup>s. 81 (2) (w),
re-enacted</sup> and the following substituted therefor:
- (w) for the purpose of computing at any particular <sup>Capital
dividend
account</sup> time after the amalgamation, the capital dividend account for a new corporation that has been a private corporation continuously from the time of the amalgamation to the particular time, there shall be added the amount of the capital dividend account of any predecessor corporation immediately before the amalgamation.
- (12) Clause *a* of subsection 3 of the said section 81 is amended <sup>s. 81 (3) (a),
amended</sup> by striking out "subclauses i to iv" in the eighth line and inserting in lieu thereof "subclause iii".
- (13) Subsection 4 of the said section 81, as amended by the <sup>s. 81 (4),
re-enacted</sup> Statutes of Ontario, 1973, chapter 157, section 22, is repealed and the following substituted therefor:

(4) Where there has been an amalgamation of two or more corporations after the 6th day of May, 1974, each shareholder (except any predecessor corporation) who, immediately before the amalgamation, owned shares of the capital stock of a predecessor corporation (in this subsection referred to as the "old shares") that were capital property to him and who received no consideration for the disposition of those shares on the amalgamation, other than shares of the capital stock of the new corporation, (in this section referred to as the "new shares") shall be deemed, <sup>Shares of
predecessor
corporation</sup>

- (a) to have disposed of the old shares for proceeds equal to the aggregate of the adjusted cost bases to him of those shares immediately before the amalgamation; and
- (b) to have acquired the new shares of any particular class of the capital stock of the new corporation at a cost to him equal to that proportion of the proceeds described in clause *a* that,

- (i) the fair market value, immediately after the amalgamation, of all new shares of that particular class so acquired by him,

is of

- (ii) the fair market value, immediately after the amalgamation, of all new shares so acquired by him,

and where the old shares were taxable Canadian property of the shareholder, the new shares shall be deemed to be taxable Canadian property of the shareholder.

s. 81 (5),
re-enacted

- (14) Subsection 5 of the said section 81, as re-enacted by the Statutes of Ontario, 1973, chapter 157, section 22, is repealed and the following substituted therefor:

Options to
acquire
shares of
predecessor
corporation

(5) Where there has been an amalgamation of two or more corporations after the 6th day of May, 1974, each person, except any predecessor corporation, who immediately before the amalgamation owned a capital property that was an option to acquire shares of the capital stock of a predecessor corporation, in this subsection referred to as the "old option", and who received no consideration for the disposition of that option on the amalgamation, other than an option to acquire shares of the capital stock of the new corporation, in this subsection referred to as the "new option", shall be deemed,

- (a) to have disposed of the old option for proceeds equal to the adjusted cost base to him of that option immediately before the amalgamation; and
- (b) to have acquired the new option at a cost to him equal to the proceeds described in clause *a*,

and where the old option was taxable Canadian property of the person, the new option shall be deemed to be taxable Canadian property of the person.

- (15) Subsection 6 of the said section 81 is repealed and the following substituted therefor: s. 81 (6),
re-enacted

(6) Notwithstanding subsection 7, where there has been an amalgamation of two or more corporations after the 6th day of May, 1974, each person, except any predecessor corporation, who immediately before the amalgamation owned a capital property that was a bond, debenture, mortgage, note or other similar obligation of a predecessor corporation, in this subsection referred to as the "old property", and who received no consideration for the disposition of the old property on the amalgamation other than a bond, debenture, mortgage, note or other similar obligation respectively, of the new corporation, in this subsection referred to as the "new property", shall, if the amount payable to the holder of the new property on its maturity is the same as the amount that would have been payable to the holder of the old property on its maturity, be deemed, Obligations
of
predecessor
corporation

- (a) to have disposed of the old property for proceeds equal to the adjusted cost base to him of that property immediately before the amalgamation; and
- (b) to have acquired the new property at a cost to him equal to the proceeds described in clause a.

(7) Where there has been an amalgamation of two or more corporations after the 6th day of May, 1974 and, Idem

- (a) a debt or other obligation of a predecessor corporation, other than any such debt or other obligation owed to any other predecessor corporation, was outstanding immediately before the amalgamation and became a debt or other obligation, as the case may be, of the new corporation on the amalgamation; and
- (b) the amount payable by the new corporation on the maturity of the debt or other obligation, as the case may be, is the same as the amount that would have been payable by the predecessor corporation on its maturity,

the provisions of this Act,

- (c) shall not apply in respect of the transfer of such debt or other obligation to the new corporation; and

- (d) shall apply as if the new corporation had incurred or issued the debt or other obligation at the time it was incurred or issued by the predecessor corporation.

Idem

(8) Where there has been a merger of a foreign affiliate of a person, in this subsection referred to as a "predecessor affiliate", and one or more other corporations to form one corporate entity that, immediately after the merger, is a foreign affiliate of the person and such merger is not as a result of the acquisition of property of one corporation by another corporation, pursuant to the purchase of such property by the other corporation, or as a result of the distribution of such property to another corporation upon the winding up of the predecessor affiliate, the provisions of subsection 8 of section 87 of the *Income Tax Act* (Canada) apply for the purposes of this Act.

1970-71,
c. 63 (Can.)

s. 82 (1),
amended

- 42.**—(1) Subsection 1 of section 82 of the said Act, as amended by the Statutes of Ontario, 1973, chapter 157, section 23, is further amended by striking out all that portion thereof immediately preceding clause *b* and inserting in lieu thereof the following:

Winding up
of wholly-
owned
Canadian
corporation

(1) Where a Canadian corporation, in this section referred to as the "subsidiary", has been wound up after the 6th day of May, 1974 and all of the issued shares of the capital stock thereof were, immediately before the winding up, owned by another Canadian corporation, in this section referred to as the "parent", notwithstanding any other provisions of this Act, the following rules apply,

- (a) subject to clause *aa*, each property of the subsidiary that was distributed to the parent on the winding up shall be deemed to have been disposed of by the subsidiary for proceeds equal to,

- (i) in the case of any property described in subsection 2 of section 59, nil,

- (ii) in the case of any eligible capital property, an amount equal to twice the cost amount to the subsidiary of such property immediately before the winding up, and

- (iii) in the case of any other property, the cost amount to the subsidiary of the property immediately before the winding up;

- (*aa*) each property of the subsidiary that was distributed to the parent on the winding up shall, for

SECTION 42.—Subsections 1 to 5. Subsection 1 of section 82 of the Act is amended so that a winding up of a wholly-owned subsidiary of a Canadian corporation will be treated in much the same way as an amalgamation.

the purpose of subclause ii or xiv of clause *e* of subsection 1 of section 83, be deemed not to have been disposed of.

- (2) Subclause ii of clause *b* of subsection 1 of the said section 82, as amended by the Statutes of Ontario, 1973, chapter 157, section 23, is further amended by striking out "minus any subsequent deduction from that adjusted cost base that is required by subsection 2 of section 55 to be made as a result of the deemed dividend referred to in clause *e*" in the amendment of 1973. s. 82 (1) (b) (ii),
amended

- (3) Clause *d* of subsection 1 of the said section 82 is amended by striking out all that portion immediately preceding subclause ii and inserting in lieu thereof the following: s. 82 (1) (d),
amended

(d) the amount determined under this clause in respect of each property that was a capital property, other than a depreciable property, of the subsidiary is such portion of the amount, if any, by which the aggregate determined under subclause ii of clause *b* exceeds the aggregate of,

(i) the amount, if any, by which,

- (A) the aggregate of amounts each of which is an amount in respect of any property owned by the subsidiary immediately before the winding up, equal to the cost amount to the subsidiary of the property immediately before the winding up, plus the amount of any money of the subsidiary on hand immediately before the winding up,

exceeds the aggregate of,

- (B) all amounts each of which is the amount of any debt owing by the subsidiary, or any other obligation of the subsidiary to pay any amount, that was outstanding immediately before the winding up, and

- (C) the amount of any reserve, other than a reserve referred to in clause *p* of subsection 1 of section 24, subclause iii of clause *a* of subsection 1 of section 42 or subsection 1 of section 61, deducted in computing the subsidiary's

income for its fiscal year during which its assets were distributed to the parent on the winding up,

- (ia) the amount of the subsidiary's tax paid undistributed surplus on hand at the time it was wound up, and
- (ib) the amount of the subsidiary's 1971 capital surplus on hand at the time it was wound up,

as is designated by the parent in respect of that capital property in its return of income under this Part for its fiscal year in which the subsidiary was so wound up, except that,

s. 82 (1) (e),
re-enacted

- (4) Clause *e* of subsection 1 of the said section 82, as amended by the Statutes of Ontario, 1973, chapter 157, section 23, is repealed and the following substituted therefor:

- (e) subsection 2 of section 78 and section 21 of the *Income Tax Application Rules, 1971* (Canada) are not applicable to the winding up of the subsidiary;
- (ea) the subsidiary may, for the purpose of computing its income for its fiscal year during which its assets were transferred to the parent on the winding up, claim any reserve that would have been allowed under this Part if its assets had not been transferred to the parent on the winding up and notwithstanding any other provision of this Part, no amount shall be included in respect of any reserve so claimed in computing the income of the subsidiary for its fiscal year, if any, following the year in which its assets were transferred to the parent;
- (eb) the provisions of clauses *c*, *da*, *g* to *sa*, *v* and *w* of subsection 2 of section 81 and, subject to section 69, subsection 7 of section 81 apply to the winding up as if the references therein to,
 - (i) "amalgamation" were read as "winding up",
 - (ii) "predecessor corporation" were read as "subsidiary",
 - (iii) "new corporation" were read as "parent",

- (iv) "its first fiscal year" were read as "its fiscal year during which it received the assets of the subsidiary on the winding up",
 - (v) "its last fiscal year" were read as "its fiscal year during which its assets were distributed to the parent on the winding up",
 - (vi) "predecessor corporation's gain" were read as "subsidiary's gain",
 - (vii) "new corporation's gain" were read as "parent's gain",
 - (viii) "predecessor corporation's income" were read as "subsidiary's income",
 - (ix) "new corporation's income" were read as "parent's income",
 - (x) "tax paid undistributed surplus on hand immediately before the amalgamation" were read as "tax paid undistributed surplus on hand, at the time the subsidiary was wound up",
 - (xi) "the aggregate of amounts each of which is the 1971 capital surplus on hand, if any, of a predecessor corporation immediately before the amalgamation" were read as "the amount of the subsidiary's 1971 capital surplus on hand at the time the subsidiary was wound up",
 - (xii) "the aggregate of amounts each of which is the paid-up capital deficiency, if any, of a predecessor corporation immediately before the amalgamation" were read as "the amount of the subsidiary's paid-up capital deficiency at the time the subsidiary was wound up", and
 - (xiii) "the capital dividend account of any predecessor corporation immediately before the amalgamation" were read as "the capital dividend account of the subsidiary at the time the subsidiary was wound up";
- (ec) for the purposes of clauses *a* and *b* of subsection 1 of section 98, gifts made by the subsidiary in its last fiscal year shall, to the extent that they were

not deductible in computing its taxable income for that fiscal year, be deemed to have been made by the parent in its first fiscal year ending after the subsidiary was wound up; and

s. 82 (2),
amended

- (5) Subsection 2 of the said section 82, as enacted by the Statutes of Ontario, 1973, chapter 157, section 23, is amended by striking out "whether or not it is a subsidiary" in the first and second lines and inserting in lieu thereof "other than a subsidiary" and by striking out "1971" in the third line and inserting in lieu thereof "the 6th day of May, 1974".

s. 82 (2) (a) (vi),
re-enacted

- (6) Subclause vi of clause a of subsection 2 of the said section 82 is repealed and the following substituted therefor:

(vi) each property of the corporation that was so distributed at the particular time shall be deemed to have been disposed of by the corporation immediately before the end of the fiscal year so deemed to have ended for proceeds equal to the fair market value thereof immediately before the particular time; and

s. 82 (2) (b),
amended

- (7) Clause b of subsection 2 of the said section 82 is amended by striking out "or clause c of subsection 1" in the second line.

s. 82,
amended

- (8) The said section 82 is further amended by adding thereto the following subsection:

Dissolution
of foreign
affiliate

- (3) Where on the dissolution of a foreign affiliate of a person one or more shares of the capital stock of another foreign affiliate of the person have been disposed of to the person, the provisions of subsection 3 of section 88 of the *Income Tax Act* (Canada) apply for the purposes of this Act.

1970-71,
c. 63 (Can.)

s. 83 (1) (b) (i),
amended

- 43.**—(1) Subclause i of clause b of subsection 1 of section 83 is amended by striking out "fiscal years in the period commencing with" in the third and fourth lines and inserting in lieu thereof "the period commencing on the first day of" and by inserting after "ending" in the seventh line "immediately".

s. 83 (1) (c),
re-enacted

- (2) Clause c of subsection 1 of the said section 83 is repealed and the following substituted therefor:

Subsections 6 and 7. These amendments terminate the application of subsection 2 of section 82 of the Act to wholly-owned subsidiaries. Complementary to subsections 1 to 5 of this section of the Bill.

Subsection 8. This amendment makes certain provisions of the *Income Tax Act* (Canada) applicable where on the dissolution of a foreign affiliate, shares of another foreign affiliate are distributed to the corporate taxpayer.

SECTION 43.—Subsection 1. By this amendment the subclause will state more precisely the period during which the net capital gains of a private corporation will accumulate in its capital dividend account.

Subsection 2. The definition of “paid-up capital”, applicable to the income tax provisions of the Act, is amended to provide for separate calculations for each share, for each class of shares and for all shares.

(c) "paid-up capital" at any particular time means,

(i) in respect of a share of any class of the capital stock of a corporation, an amount equal to the paid-up capital at that time, in respect of the class of shares of the capital stock of the corporation to which that share belongs, divided by the number of issued shares of that class outstanding at that time,

(ii) in respect of a class of shares of the capital stock of a corporation, the amount, if any, by which the aggregate of,

(A) an amount equal to the paid-up capital in respect of that class of shares at that time, determined without reference to this subclause,

(B) all amounts each of which is an amount in respect of the issue of any share of that class by the corporation before that time equal to the amount, if any, by which,

1. the fair market value, at the time that share was issued, of the consideration received by the corporation for the issue of that share,

exceeds

2. the amount by which the paid-up capital referred to in sub-subclause A was increased by virtue of the issue of that share, and

(C) all amounts each of which is the amount by which,

1. that portion of the amount, if any, by which,

i. any contribution of property, other than eligible capital property, to the corporation by a shareholder who owned shares of that class,

exceeds

- ii. any consideration given by the corporation in respect of that contribution of property,

that cannot reasonably be regarded as a gift made to or for the benefit of any other shareholder of the corporation,

exceeds

- 2. the portion of the portion determined under paragraph 1 that has otherwise been included in the paid-up capital in respect of that or any other class of shares of the capital stock of the corporation,

exceeds the aggregate of,

- (D) all amounts each of which is an amount in respect of the redemption, acquisition or cancellation in any manner whatever, before that time, of a share of that class by the corporation equal to the amount, if any, by which,

- 1. the paid-up capital in respect of that share immediately before such redemption, acquisition or cancellation,

exceeds

- 2. the reduction in the amount of the paid-up capital referred to in sub-subclause A by virtue of such redemption, acquisition or cancellation,

- (E) all amounts each of which is an amount in respect of a reduction of the paid-up capital of that class, before that time, otherwise than by way of redemption, acquisition or cancellation of shares of that class equal to the amount, if any, by which,

Subsection 3. These amendments to the definition of "paid-up capital deficiency" are complementary to the amendments, in subsections 2 and 6 of this section of this Bill, to the definitions of "paid-up capital" and "1971 capital surplus on hand".

1. the amount paid by the corporation on the reduction of the paid-up capital,

exceeds

2. the reduction in the amount of the paid-up capital referred to in sub-subclause A by virtue of such reduction, and

(F) all amounts each of which is the amount of a dividend that the corporation would, but for this clause, have been deemed, by subsection 1 of section 78, to have paid on an increase in the paid-up capital of that class of shares other than an increase on the issue of a share of that class or by virtue of the amalgamation of two or more corporations, and

(iii) in respect of all the shares of the capital stock of a corporation, an amount equal to the aggregate of all amounts each of which is an amount equal to the paid-up capital in respect of any class of shares of the capital stock of the corporation at the particular time.

(3) Clause *d* of subsection 1 of the said section 83 is amended <sup>s. 83 (1) (d),
amended</sup> by striking out all that portion thereof immediately preceding subclause v and inserting in lieu thereof the following:

(*d*) "paid-up capital deficiency" of a corporation at any particular time after the 6th day of May, 1974 means the amount, if any, by which the aggregate of,

- (i) the amounts determined under subclauses xii and xiii of clause *l* in respect of the corporation,
- (ii) all amounts determined under subclauses xiv, xv and xviii of clause *l* in respect of the corporation at the particular time,
- (iii) all amounts each of which is an amount equal to the paid-up capital at the particular time in respect of a share of the capital stock of

the corporation issued after 1971 that was received by a person as described in subsection 1 of section 37 if that person, or that person together with other persons with whom he does not deal at arm's length, controlled the corporation directly or indirectly in any manner whatever immediately after the time the share was issued,

- (iv) where subsection 1 or 2 of section 79 has been applicable in respect of any disposition of property (other than a disposition after the 6th day of May, 1974 and before the 19th day of November, 1974) to the corporation before the particular time, the amount, if any, by which,

- (A) the amount by which any increase, by virtue of the disposition, in the paid-up capital of the corporation exceeds any increase, by virtue of the disposition, in the value of its assets (determined as though the value of any property so transferred were its cost to the corporation for the purposes of this Part and as though this Part were read without reference to subsection 5 of section 79) less its liabilities,

exceeds

- (B) the amount by which any increase, by virtue of the disposition, in the paid-up capital of the corporation exceeds any increase, by virtue of its assets less its liabilities, and

- (iva) where the particular time is after the 18th day of November, 1974 and where at any time before the particular time the corporation issued any shares of its capital stock as consideration for the purchase of shares of a capital stock of a second corporation and,

- (A) at any time before those shares were so issued, any particular person, or the group of persons to whom those shares were issued,

- 1. controlled the second corporation, directly or indirectly in any manner whatever, or

2. beneficially owned shares of the capital stock of the second corporation representing more than 50 per cent of its paid-up capital, and

(B) at any time before the particular time, the particular person or group of persons referred to in sub-subclause A,

1. controlled the corporation directly or indirectly in any manner whatever,
2. beneficially owned shares of the capital stock of the corporation representing more than 50 per cent of its paid-up capital, or
3. held an amount of debt payable by the corporation that exceeded the paid-up capital of the corporation, at a time when shares of the capital stock of the corporation representing more than 50 per cent of its paid-up capital were beneficially owned by,

- i. that particular person,

- ii. that group of persons,

- iii. persons related to that particular person or any member of that group of persons, or

- iv. any combination of persons referred to in this paragraph,

all amounts each of which is an amount in respect of any shares so issued at any given time equal to the amount, if any, by which the lesser of,

(C) subject to subsection 6, the increase in the paid-up capital of the corporation by virtue of the issue of those shares, on the assumption that clause *c* applied on the issue of those shares, and

(D) the amount, if any, by which the aggregate of the increase in the paid-up capital of the corporation by virtue of the issue of those shares, on the assumption that clause *c* applied on the issue of those shares, and the fair market value at that time of any other consideration given by the corporation at that time for the purchase of the shares of the second corporation exceeds the lesser of,

1. the paid-up capital limit of the second corporation at that time or on the 18th day of November, 1974 where that day is later, and
2. the aggregate of all amounts each of which is the paid-up capital at that time of each share of the second corporation so purchased at that time, on the assumption that clause *c* applied at that time,

exceeds the aggregate of,

(E) the amount of any dividend that the corporation is deemed by virtue of subsection 1 of section 78 to have paid as a result of the issue of those shares, and

(F) the amount determined under subclause iv in respect of the corporation as a result of the issue of those shares,

exceeds the aggregate of,

.

s. 83 (1) (d) (vi),
amended

(4) Subclause vi of clause *d* of subsection 1 of the said section 83 is amended by striking out "iii, iv and iv.1" in the second line and inserting in lieu thereof "to x".

s. 83 (1) (d) (ix),
amended

(5) Subclause ix of clause *d* of subsection 1 of the said section 83 is amended by inserting after "clause *a*" in the sixth line "or *c*".

Subsection 4. Complementary to the amendment to the definition of "1971 capital surplus on hand" in subsection 6 of this section of this Bill.

Subsection 5. This amendment provides that the "restricted farm losses" of hobby farmers are to be deducted when computing the "paid-up capital deficiency" of a corporation.

Subsection 6. In this provision the definition of "1971 capital surplus on hand" is amended to adopt the changes to that expression enacted in the *Income Tax Act* (Canada).

- (6) Clause 1 of subsection 1 of the said section 83, as amended ^{s. 83 (1) (1), re-enacted} by the Statutes of Ontario, 1973, chapter 157, section 24, is repealed and the following substituted therefor:

(1) "1971 capital surplus on hand" of a corporation at any particular time after the 6th day of May, 1974, means the amount, if any, by which the aggregate of,

- (i) the tax equity of the corporation at the end of its 1971 fiscal year,
- (ii) subject to subsection 5, all amounts each of which is an amount in respect of a capital property of the corporation owned by it on December 31, 1971 and disposed of by it after that date and before the particular time equal to the amount, if any, by which the lesser of its fair market value on the day fixed by proclamation for the purposes of subdivision B and the corporation's proceeds of disposition thereof exceeds its actual cost to the corporation determined without reference to the *Corporations Tax Application Rules, 1972*, other than subsections 15, 17 and 21 to 27 of section 26 thereof,
- (iii) all amounts each of which is an amount in respect of a capital property owned by it at the end of its 1971 fiscal year or acquired by it thereafter and disposed of by the corporation before 1972, equal to the amount, if any, by which the corporation's proceeds of disposition thereof exceeds its actual cost to the corporation determined without reference to the *Corporations Tax Application Rules, 1972*,
- (iv) all amounts each of which is an amount in respect of a dividend received by the corporation on a share of the capital stock of another corporation after 1971 and before the particular time, which amount was, by virtue of subsection 1 of section 77, not included in computing the income of the corporation by virtue of this Subdivision, minus such portion, if any, of that amount as was payable out of the other corporation's tax-paid undistributed surplus on hand, and

- (v) all amounts each of which is an amount in respect of an eligible capital amount, within the meaning given to that expression by subsection 1 of section 18, in respect of a business carried on by the corporation that became payable to the corporation in a fiscal year commencing after the time the corporation last became a private corporation and ending before the particular time, equal to the amount, if any, by which,

- (A) the amount that the eligible capital amount would be but for the provisions of the *Corporations Tax Application Rules, 1972*, relating to section 18,

exceeds

- (B) the aggregate of

- 1. the eligible capital amount, and
 - 2. where the amount in respect of an eligible capital amount is received as consideration for the disposition of, or for allowing the expiry of, a government right, within the meaning given to that expression by the *Corporations Tax Application Rules, 1972*, such amount as is included in respect thereof in the tax equity of the corporation at the end of its 1971 fiscal year by virtue of subclause iia of clause h,

- (vi) all amounts each of which is an amount that became payable to the corporation after the end of its 1971 fiscal year and before 1972 in respect of a property, owned by it at the end of its 1971 fiscal year or acquired by it thereafter and disposed of by it before 1972, that would have been eligible capital property if it had been disposed of after 1971, equal to the amount, if any, by which the amount that became payable exceeds any amount included in respect of that property in the tax equity of the corporation at the end of its 1971 fiscal year by virtue of subclause iia of clause h,

(vii) all amounts each of which is an amount equal to the amount, if any, by which,

(A) the aggregate of all amounts that have become due to the corporation before the particular time in respect of the disposition after 1971 of a property owned by the corporation on the 31st day of December, 1971 that is a property referred to in clause *b* of subsection 2 of section 59,

exceeds

(B) the relevant percentage, within the meaning given to that expression by subsection 4 of section 59, of the amount receivable by the corporation in respect of that disposition,

(viii) all amounts each of which is an amount receivable in respect of a property referred to in clause *b* of subsection 2 of section 59 owned by the corporation at the end of its 1971 fiscal year or acquired by it thereafter and disposed of by it before 1972,

(ix) all amounts each of which is an amount deducted by virtue of clause *b* of subsection 1 or 2 of section 31*a* in computing the income of the corporation for a fiscal year ending before the particular time,

(x) the amount, if any, by which,

(A) the proceeds of any life insurance policy received by the corporation after the end of its 1971 fiscal year and before 1972 as the result of the death of any person whose life was insured under the policy,

exceeds

(B) the aggregate of,

1. all amounts included in the tax equity of the corporation at the end of its 1971 fiscal year in respect of the policy, and

2. all amounts paid as or on account of premiums paid under the policy by the corporation after the end of its 1971 fiscal year and before 1972, and

- (xi) all amounts determined under subclauses vii and x of clause *d* in respect of the corporation at the particular time,

exceeds the aggregate of,

- (xii) the paid-up capital of the corporation at the end of its 1971 fiscal year in respect of all of the shares of its capital stock,

- (xiii) the amount that the corporation's undistributed income on hand, within the meaning given to that expression by the *Income Tax Act* (Canada) as it read in its application to the 1971 fiscal year, would be at the end of its 1971 fiscal year if,

- (A) that Act as it so read were read without reference to subparagraph iii of paragraph *a* of subsection 1 of section 82 thereof,

- (B) references in paragraph *a* of subsection 1 of section 82 of that Act, except clause A of subparagraph vii thereof, to "1917" were read as references to "1950", and

- (C) no amount were allowed as a deduction under subparagraph ii of paragraph *a* of subsection 1 of section 82 of that Act as it read in its application to that year that was not deductible in computing the corporation's income for the 1971 or any previous fiscal year for the purposes of Part I of that Act as it read in its application to that year, but would have been deductible in computing its income for the 1971 fiscal year if that Act as it read in its application to that year had been read without reference to any restriction on the quantum of any deduction thereunder,

Subsection 7. The subsections added to section 83 of the Act will establish the value to be used in the calculation of "1971 capital surplus on hand" for depreciable property that was acquired by a corporation prior to 1949 (subsection 4); establish for purposes of calculating the "1971 capital surplus on hand" and the "paid-up capital deficiency" special calculations of the value of shares in associated companies which were owned on December 31, 1971 and which are disposed of after that date in the course of certain capital re-organizations whereby the taxes on gains and losses after 1972 are deferred (subsection 5); and supply a special calculation to reduce the "paid-up capital deficiency" for certain dispositions of shares made between May 6, 1974 and November 18, 1974 (subsection 6).

(xiv) subject to subsection 5, all amounts each of which is an amount in respect of a capital property, other than depreciable property, of the corporation owned by it on the 31st day of December, 1971 and disposed of by it after that date and before the particular time equal to the amount, if any, by which its actual cost to the corporation determined without reference to the *Corporations Tax Application Rules, 1972*, other than subsections 15, 17, and 21 to 27 of section 26 thereof, exceeds the greater of the fair market value of the property on the day fixed by proclamation for the purposes of subdivision B and the corporation's proceeds of disposition thereof,

(xv) all amounts each of which is an amount in respect of a capital property, other than depreciable property, owned by it at the end of its 1971 fiscal year or acquired by it thereafter and disposed of by it before 1972, equal to the amount, if any, by which its actual cost to the corporation determined without reference to the *Corporations Tax Application Rules, 1972* exceeds the corporation's proceeds of disposition thereof,

(xvi) all amounts determined under subclauses iii and iv *a* of clause *d* in respect of the corporation at the particular time,

(xvii) where the particular time is after the 18th day of November, 1974, all amounts determined under subclause iv of clause *d* in respect of the corporation at the particular time, and,

(xviii) all amounts each of which is an amount in respect of a dividend that became payable by the corporation before the particular time, equal to the portion, if any, thereof payable out of its 1971 capital surplus on hand.

(7) The said section 83 is further amended by adding thereto the following subsections: s. 83,
amended

(4) For the purposes of subclause vi of clause *d* and subclauses ii and iii of clause *l* of subsection 1, the actual cost of depreciable property that was acquired by a corporation before the commencement of its 1949 fiscal year that is Deemed
capital cost
of certain
depreciable
property

capital property referred to in those subclauses shall be deemed to be the capital cost of such property to the corporation, within the meaning given to that expression by section 144 of the *Income Tax Act* (Canada) as it read in its application to the 1971 fiscal year.

R.S.C. 1952,
c. 148

Rules
concerning
the 1971
capital
surplus on
hand and
paid-up
capital
deficiency

(5) For the purposes of determining the 1971 capital surplus on hand or paid-up capital deficiency of a corporation at any particular time after the 6th day of May, 1974, the following rules apply:

(a) the amount referred to in subclauses ii and xiv of clause 1 of subsection 1 in respect of a capital property of the corporation shall be deemed to be nil, where the property disposed of is,

(i) a share of the capital stock of a subsidiary corporation referred to in subsection 1 of section 82 that was disposed of on the winding-up of the subsidiary where that winding-up commenced after the 29th day of May, 1973,

(ii) a share of the capital stock of another Canadian corporation that was controlled, within the meaning given to that expression by subsection 2 of section 186 of the *Income Tax Act* (Canada), by the corporation immediately before the disposition and that was disposed of by the corporation whom the corporation was not dealing at arm's length immediately after the disposition, other than by a disposition referred to in clause b, or

(iii) subject to subsection 21 of section 26 of the *Income Tax Application Rules, 1971* (Canada), a share of the capital stock of a particular corporation that was disposed of by the corporation after the 6th day of May, 1974, on an amalgamation, within the meaning given to that expression by subsection 1 of section 81, where the corporation controlled, within the meaning given to that expression by subsection 2 of section 186 of the *Income Tax Act* (Canada); both the particular corporation immediately before the amalgamation and the new corporation immediately after the amalgamation; and

(b) where another corporation that is a Canadian corporation owned a capital property on the 31st day

1970-71,
c. 63 (Can.)

SECTION 44. The new section 83*a* provides the rules to determine the fair market value of a share, bond, debenture, mortgage or similar obligation which has been converted into a share of the capital stock of the issuing corporation. In addition subsection 2 of section 83*a* sets out the procedure for determining the paid-up capital of the shares of a corporation formed as the result of an amalgamation; and subsection 3 requires a corporation to adjust its paid-up capital where it has elected to pay a tax-free dividend.

of December, 1971 and subsequently disposed of it to the corporation in a transaction to which section 79 applied, the other corporation shall be deemed not to have disposed of that property in the transaction and the corporation shall be deemed to have owned that property on the 31st day of December, 1971 and to have acquired it at an actual cost of that property to the other corporation.

(6) Where subclause *iva* of clause *d* of subsection 1 has applied to the issue, prior to the 19th day of November, 1974, of any share of the capital stock of a corporation, for the purpose of sub-subclause C of subclause *iva* of clause *d* of subsection 1, the increase in the paid-up capital of the corporation by virtue of the issue of that share shall, subject to section 78*b*, be deemed to be equal to the amount that would be determined under sub-subclause B of subclause *ii* of clause *c* of subsection 1 in respect of the issue of that share if clause *c* of subsection 1 were applicable at that time.

Reduction
in paid-up
capital
deficiency

44. The said Act is further amended by adding thereto the following section: s. 83*a*,
enacted

83*a*.—(1) For the purposes of paragraph 1 of sub-subclause B of subclause *ii* of clause *c* of subsection 1 of section 83, where a corporation has issued any shares of a particular class of its capital stock in exchange for another share, bond, debenture, mortgage, note or other similar obligation of the corporation, in this subsection referred to as a “convertible property”, the fair market value of the convertible property at the time the shares of the particular class were issued shall be deemed to be an amount equal to,

Paid-up
capital:
special
rules on
conversion
of property

(*a*) where the convertible property was a share, the amount of the paid-up capital in respect of that share immediately before the exchange; or

(*b*) where the convertible property was a debt owing by the corporation, the amount of that debt immediately before the exchange.

(2) Where there has been an amalgamation, within the meaning given to that expression by section 81, of two or more corporations, each of which corporations is in this subsection referred to as a “predecessor corporation”, to form one corporate entity, in this subsection referred to as the “new corporation”,

Paid-up
capital in
respect of
amalgama-
tions

- (a) for the purposes of paragraph 1 of sub-subclause B of subclause ii of clause *c* of subsection 1 of section 83, the new corporation shall be deemed to have received no consideration for any shares of its capital stock that were issued on the amalgamation;
- (b) the paid-up capital in respect of any particular class of the capital stock of the new corporation shall, at any particular time after the amalgamation and after the 6th day of May, 1974, be increased by the amount, if any, by which,
 - (i) the aggregate of all amounts each of which is the paid-up capital, immediately before the amalgamation, in respect of a share of the capital stock of a predecessor corporation, other than a share owned by another predecessor corporation,

exceeds

- (ii) the aggregate of all amounts each of which is the paid-up capital, referred to in sub-subclause A of subclause ii of clause *c* of subsection 1 of section 83, immediately after the amalgamation, in respect of a class of shares of the capital stock of the new corporation,

to the extent that that amount has not been included in the paid-up capital of any other class of shares of the capital stock of the new corporation; and

- (c) where the amalgamation occurred prior to the 7th day of May, 1974, the paid-up capital, immediately before the amalgamation, of a share of the capital stock of a predecessor corporation shall, for the purposes of subclause i of clause *b* be determined as though subclauses i and ii of clause *c* of subsection 1 of section 83 applied immediately before the amalgamation.

(3) Where a corporation has made an election under subsection 1 of section 77 in respect of a dividend on a particular class of shares of the capital stock of the corporation that has, before the 19th day of May, 1974 become payable, or was paid if that event was earlier than the time it became payable, and

- (a) the portion of the dividend that was payable out of the corporation's 1971 capital surplus on hand

Paid-up
capital:
where
dividend
paid

SECTION 45. This amendment provides that the foreign accrual property income provisions of the *Income Tax Act* (Canada) are to apply in computing under *The Corporations Tax Act, 1972*, the income of a resident corporation.

SECTION 46.—Subsection 1. These amendments add rules to the partnership provisions of the Act relating to the allocation of a share of the income or loss of a partnership to a corporation which has ceased to be a partner.

pursuant to clause *b* of subsection 1 of section 77, as it read at the time the dividend became payable, or was paid if that time was earlier than the time it became payable,

exceeds

- (*b*) the portion of the dividend that would have been payable out of the corporation's 1971 capital surplus on hand if this Act were read without reference to this section,

notwithstanding any other provision of this Act, the paid-up capital in respect of the particular class of shares at the end of the corporation's 1971 fiscal year and at any time after the 18th day of May, 1974, shall be reduced by the amount, if any, by which the amount referred to in clause *a* exceeds the amount referred to in clause *b*.

45. The said Act is further amended by adding thereto the following section: s. 84a,
enacted

84a. It is hereby declared that the provisions of sections 91, 92, 93, 94 and 95 of the *Income Tax Act* (Canada) shall apply to this Act for the purpose of computing the income for a fiscal year of a corporation resident in Canada. Income of
corporations
from foreign
affiliates
1970-71,
c. 63 (Can.)

- 46.—(1) Section 85 of the said Act, as amended by the Statutes of Ontario, 1973, chapter 157, section 25, is further amended by adding thereto the following subsections: s. 85,
amended

(1a) For the purposes of subsection 1 and sections 90 and 92, Allocation
of share
of income to
retiring
partner

- (*a*) where the principal activity of a partnership is carrying on business in Canada and the members thereof have entered into an agreement to allocate a share of the income or loss of the partnership from any source or from sources in a particular place, as the case may be, to any corporation that at any time ceased to be a member of,

(i) the partnership, or

- (ii) a partnership that any time has ceased to exist or would, but for subsection 1 of section 87 have ceased to exist, and either,

(A) the members thereof, or

- (B) the members of another partnership in which, immediately after that time, any of the members referred to in sub-subclause A became members,

have agreed to make such an allocation to the corporation,

that corporation shall be deemed to be a member of the partnership; and

- (b) all amounts each of which is an amount equal to the share of the income or loss referred to in this subsection allocated to a corporation from a partnership in respect of a particular fiscal year of the partnership shall, notwithstanding any other provision of this Act, be included in computing the corporation's income for the fiscal year in which that fiscal year of the partnership ends.

Disposal
of right
to share
in income,
etc.

- (1b) Where in a fiscal year a corporation that has a right to a share of the income or loss of a partnership under an agreement referred to in subsection 1a disposes of that right,

- (a) there shall be included in computing its income for the year the proceeds of the disposition; and
- (b) for greater certainty, the cost to the corporation of each property received by it as consideration for the disposition is the fair market value of the property at the time of the disposition.

Deductions

- (1c) Where, by virtue of subsection 1a or 1b, an amount has been included in computing a corporation's income for a fiscal year, there may be deducted in computing its income for the year the lesser of,

- (a) the amount so included in computing its income for the year; and
- (b) the amount, if any, by which the cost to the corporation of the right to a share of the income or loss of a partnership under an agreement referred to in subsection 1a exceeds the aggregate of all amounts in respect of that right that were deductible by virtue of this subsection in computing its income for previous fiscal years.

Right
deemed not
to be capital
property

- (1d) For the purposes of this Act, a right to a share of the income or loss of a partnership under an agreement refer-

Subsection 2. This amendment by adding a reference to subsection 2 of section 86 of the Act (which deals with an election relating to property transferred by a partner to a partnership) provides that where property is transferred to a partnership by a corporation which thereafter becomes a member, any election relating to the cost or proceeds of disposition of that property will be valid if it is executed on behalf of the corporation and the members of the partnership.

SECTION 47.—Subsection 1. Complementary to the amendments in section 48 of this Bill.

Subsection 2. This amendment will allow a corporation to have a deferral of realization of a capital gain that would otherwise result where the partnership of which it was a member has ceased to exist and the corporation carries on the business of the partnership as a sole proprietorship using property received from the partnership.

red to in subsection 1*a* shall be deemed not to be capital property.

(1*e*) Where a partnership carries on a business in Ontario in a fiscal year, each corporation that is deemed by clause *a* of subsection 1*a* to be a member of the partnership shall, for the purposes of subsection 2 or 3 of section 2, be deemed to have a permanent establishment in Ontario from which it carried on business in that year. Members of partnership deemed to have a permanent establishment in Ontario

(2) Subsection 3 of the said section 85, as enacted by the Statutes of Ontario, 1973, chapter 157, section 25, is amended by striking out "or" in the eighth line and by inserting after "36" in the ninth line "or subsection 2 of section 86". s. 85 (3), amended

47.—(1) Subsection 2 of section 87 of the said Act is repealed. s. 87 (2), repealed

(2) The said section 87 is amended by adding thereto the following subsection: s. 87, amended

(5*a*) Where at any particular time after 1971 a Canadian partnership has ceased to exist and within three months after the particular time one, but not more than one, of the persons who were, immediately before the particular time, members of that partnership, carries on by himself the business that was the business of the partnership and continues to use, in the course of the business, any property that was, immediately before the particular time partnership property and that was received by him as proceeds of disposition of his interest in the partnership, and where that one person is a corporation, hereafter in this section referred to as the "proprietor corporation", the following rules apply: Where partnership business carried on as sole proprietorship

(*a*) the proprietor corporation's proceeds of disposition of its interest in the partnership shall be deemed to be an amount equal to the greater of,

(i) the aggregate of the adjusted cost base to it, immediately before the particular time, of its interest in the partnership, and the cost to it of all interests in the partnership deemed by clause *q* to have been acquired by it at the particular time, and

(ii) the aggregate of,

(A) the cost amount to the partnership, immediately before the particular time, of each property so received by it, and

- (B) the amount of any other proceeds of the disposition of its interest in the partnership received by it;
- (b) the cost to the proprietor corporation of each such property so received by it shall be deemed to be an amount equal to,
 - (i) the cost amount to the partnership of the property immediately before that time,
 plus,
 - (ii) where the amount determined under subclause i of clause *a* exceeds the amount determined under subclause ii of clause *a*, the amount determined under clause *c* or *d*, as the case may be, in respect of the property;
- (c) the amount determined under this clause in respect of each such property so received by it that is a capital property, other than depreciable property, of the proprietor corporation is such portion of the excess, if any, described in subclause ii of clause *b* as is designated by it in respect of the property, except that,
 - (i) in no case shall the amount so designated in respect of any such property exceed the amount, if any, by which the fair market value of the property immediately after the particular time exceeds the cost amount to the partnership of the property immediately before that time, and
 - (ii) in no case shall the aggregate of amounts so designated in respect of all such capital properties, other than depreciable property, exceed the excess, if any, described in subclause ii of clause *b*;
- (d) the amount determined under this clause in respect of each such property so received by it that is depreciable property or a property other than a capital property of the proprietor corporation is such portion of,
 - (i) the amount, if any, by which the excess, if any, described in subclause ii of clause *b*

exceeds the aggregate of amounts designated by it under clause *c* in respect of all capital properties, other than depreciable property,

as is designated by it in respect of the property, except that,

- (ii) in no case shall the amount so designated in respect of any such property exceed the amount, if any, by which the fair market value of the property immediately after the particular time exceeds the cost amount to the partnership of the property immediately before that time, and
 - (iii) in no case shall the aggregate of amounts so designated in respect of all such properties of the proprietor corporation that are depreciable property or properties other than capital properties, exceed one-half of the amount determined under subclause *i* in respect of the proprietor corporation;
- (*e*) where any such property so received by it was depreciable property of a prescribed class of the partnership and the amount that was the capital cost to the partnership of that property exceeds the amount determined under clause *b* to be the cost to the proprietor corporation of the property, for the purposes of sections 17 and 24 and any regulations made under clause *a* of subsection 1 of section 24,
- (i) the capital cost to the proprietor corporation of the property shall be deemed to be the amount that was the capital cost to the partnership of the property, and
 - (ii) the excess shall be deemed to have been allowed to the proprietor corporation in respect of the property under regulations made under clause *a* of subsection 1 of section 24 in computing income for fiscal years before the acquisition by it of the property;
- (*f*) the partnership shall be deemed to have disposed of each such property for proceeds equal to the cost amount to the partnership of the property immediately before the particular time; and

- (g) where, at the particular time, all other persons who were members of the partnership immediately before that time have disposed of their interests in the partnership to the proprietor corporation, the proprietor corporation shall be deemed at that time to have acquired partnership interests from those other persons and not to have acquired any property that was property of the partnership.

ss. 87a, 87b,
enacted

48.—(1) The said Act is further amended by adding thereto the following sections:

Residual
interest in
partnership

87a.—(1) Where, but for this subsection, at any time after 1971 a corporation has ceased to be a member of a partnership of which it was a member immediately before that time, the following rules apply,

- (a) until such time as all its rights (other than a right to a share of the income or loss of the partnership under an agreement referred to in subsection 1a of section 85) to receive any property of or from the partnership in satisfaction of its interest in the partnership immediately before the time that it ceased to be a member of the partnership are satisfied in full, such interest, in this section referred to as a “residual interest”, shall, subject to section 50 but notwithstanding any other section of this Act, be deemed not to have been disposed of by the corporation and to continue to be an interest in the partnership;
- (b) where all of the corporation’s rights described in clause *a* are satisfied in full before the end of the fiscal year of the partnership in which it ceased to be a member thereof, it shall, notwithstanding clause *a*, be deemed not to have disposed of its residual interest until the end of that fiscal year;
- (c) notwithstanding subsection 3 of section 42, where at the end of a fiscal year of the partnership, in respect of a residual interest in the partnership,
 - (i) the aggregate of all amounts required by subsection 2 of section 55 to be deducted in computing the adjusted cost base to the corporation of the residual interest at that time,

exceeds

SECTION 48. The new sections 87*a* and 87*b* provide rules with respect to "residual interests" in partnerships and rights to property of partnerships in situations where a corporation has ceased to be a member of the partnership and where a corporation has acquired the "residual interest" in a partnership on the death of an individual.

- (ii) the aggregate of the cost to it of the residual interest determined for the purpose of computing the adjusted cost base to it of that interest at that time and all amounts required by subsection 1 of section 55 to be added to the cost to it of the residual interest in computing the adjusted cost base to it of that interest at that time,

the amount of the excess shall be deemed to be a gain of the corporation for the year from a disposition at that time of that residual interest; and

- (d) where a corporation has a residual interest,
 - (i) by virtue of clause *b*, it shall, except for the purposes of subsection 3 of section 98 be deemed not to be a member of the partnership, and
 - (ii) in any other case, it shall except for the purposes of subsection 3 of section 79, be deemed not to be a member of the partnership.

(2) Where a partnership, in this subsection referred to as the "original partnership", has or would but for subsection 1 of section 87 have ceased to exist at a time when a corporation had rights described in clause *a* of subsection 1 in respect of that partnership and the members of another partnership agree to satisfy all or part of those rights, that other partnership shall, for the purposes of clause *a* of subsection 1 be deemed to be a continuation of the original partnership.

Continuation
of original
partnership

87*b*. Where by virtue of the death of an individual a corporation has acquired a property that was an interest in a partnership to which, immediately before the individual's death, section 87*a* applied,

Transfer
of interest
on death

- (a) the corporation shall be deemed to have acquired a right to receive partnership property and not to have acquired an interest in a partnership;
- (b) the corporation shall be deemed to have acquired the right referred to in clause *a* at a cost equal to the amount determined to be the proceeds of disposition of the interest in the partnership to the deceased individual by virtue of paragraph *a* of subsection 5 of section 70 or paragraph *d* of subsection 6 of section 70, as the case may be, of the *Income Tax Act* (Canada); and

1970-71,
c. 63 (Can.)

(c) section 45 is not applicable to the right.

s. 89 (2) (b),
re-enacted

49. Clause *b* of subsection 2 of section 89 of the said Act is repealed and the following substituted therefor:

(b) the aggregate of,

- (i) the cost to the corporation of the interest in the partnership determined for the purpose of computing the adjusted cost base to it of that interest at that time, and
- (ii) all amounts required by subsection 1 of section 55 to be added to the cost to it of that interest in computing the adjusted cost base to it of that interest at that time.

s. 96,
amended

50.—(1) Section 96 of the said Act, as amended by the Statutes of Ontario, 1973, chapter 157, section 26, is further amended by adding thereto the following subsection:

Cost of
capital
interest in a
testamentary
trust

(1a) For the purposes of subsection 1 and notwithstanding clause *c* of subsection 1 of section 66, the cost to a corporation of a capital interest in a testamentary trust shall be deemed to be,

- (a) where the interest was purchased, the cost otherwise determined;
- (b) where paragraph *c* of subsection 5 of section 70 of the *Income Tax Act* (Canada) applies, the cost therein determined; and
- (c) in any other case, nil.

1970-71,
c. 63 (Can.)

s. 96 (3),
amended

(2) Subsection 3 of the said section 96 is amended by striking out "that proportion" in the ninth line and in the tenth line and inserting in lieu thereof in each instance "the amount".

s. 97 (1) (c),
amended

51. Clause *c* of subsection 1 of section 97 of the said Act, as amended by the Statutes of Ontario, 1973, chapter 157, section 27, is further amended by inserting after "trust" in the second line "other than a trust that is a foreign affiliate of the corporation".

s. 100 (1) (c),
repealed

52.—(1) Clause *c* of subsection 1 of section 100 of the said Act is repealed.

s. 100 (2),
amended

(2) Subsection 2 of the said section 100 is amended by striking out "corporation" in the second line and inserting in lieu thereof "corporation, other than a foreign affiliate of the corporation".

SECTION 49. This amendment provides that in calculating the gain or loss from the sale by a corporation of an interest in a partnership, the amount used as the cost is the same amount as is determined elsewhere in the Act to be the cost.

SECTION 50.—Subsection 1. This amendment provides the rules to determine cost to a corporation of a capital interest in a testamentary trust.

Subsection 2. This amendment is made for the purpose of clarification.

SECTION 51. This amendment redefines “cost amount” of any capital interest of a corporation in a trust so that it will not apply to a trust which is a foreign affiliate of the corporation. Trusts which are foreign affiliates are dealt with elsewhere in this Bill.

SECTION 52.—Subsection 1. This amendment removes the provision entitling a corporation to a deduction from income with respect to dividends received from foreign affiliates. This is complementary to the amendment in section 53 of this Bill.

Subsection 2. By this amendment dividends received from foreign affiliates are excluded from the general provisions relating to dividends received from non-resident corporations that are taxable in Canada. This is complementary to the other amendments in this Bill dealing specifically with dividends received from foreign affiliates.

Subsection 3. These amendments will restrict the ability of corporations and securities dealers to deduct losses on shares which they hold for investment purposes or for trading purposes. Subsection 3 of section 100, relating to losses on shares held for investment purposes, is extended to apply to securities dealers; and subsection 4 of section 100, relating to losses on shares held for trading purposes, is extended to apply to corporations other than securities dealers. In addition a new subsection 4a is added to section 100 to require that in establishing the fair market value of a share contained in inventory, the amount of any dividends received, other than capital gains dividends received from mutual funds or investment corporations, should be deducted from the fair market value otherwise determined.

- (3) Subsections 3 and 4 of the said section 100 are repealed s. 100 (3, 4), re-enacted and the following substituted therefor:

(3) Where a corporation owns a share that is a capital Loss on share that is capital property property and receives a taxable dividend or capital dividend in respect of that share, the amount of any loss of the corporation arising from transactions with reference to the share on which the dividend was received shall, unless it is established by the corporation that,

- (a) the corporation owned the share 365 days or longer before the loss was sustained; and
- (b) the corporation did not, at the time the dividend was received, own more than 5 per cent of the issued shares of any class of the capital stock of the corporation from which the dividend was received,

be deemed to be the amount of that loss otherwise determined, minus the aggregate of all amounts received by the corporation in respect of;

- (c) taxable dividends on the share to the extent that the amounts thereof were deductible from the corporation's income for any fiscal year by virtue of this section or subsection 6 of section 138 of the *Income Tax Act* (Canada); or 1970-71, c. 63 (Can.)

- (d) capital dividends on the share.

(4) Where a corporation owns a share that is not a capital Loss on share that is not capital property property and receives a dividend in respect of that share, the amount of any loss of the corporation arising from transactions with reference to the share on which the dividend was received shall, unless it is established by the corporation that,

- (a) it owned the share 365 days or longer before the loss was sustained; and
- (b) it did not, at the time the dividend was received, own more than 5 per cent of the issued shares of any class of the capital stock of the corporation from which the dividend was received,

be deemed to be the amount of that loss otherwise determined, minus the aggregate of all amounts received by it in respect of dividends, other than capital gains dividends within the meaning given to that expression by subsection 1 of section 109, on the share.

Fair
market
value of
share that
is not
capital
property

(4a) Where a corporation owns a share that is not a capital property and receives a dividend in respect of that share, for the purpose of subsection 1 of section 15 the fair market value of the share at any particular time after the 18th day of November, 1974 shall, unless it is established by the corporation that,

- (a) it owned the share 365 days or longer before the particular time; and
- (b) it did not, at the time the dividend was received, own more than 5 per cent of the issued shares of any class of the capital stock of the corporation from which the dividend was received,

be deemed to be the aggregate of the fair market value of the share at the particular time otherwise determined and all amounts received before the particular time by it in respect of dividends, other than capital gains dividends within the meaning given to that expression by subsection 1 of section 109, on the share.

s. 100,
amended

- (4) Section 100 of the said Act is amended by adding thereto the following subsection:

Rules
where
shares
exchanged

(6) Where at a particular time a share, in this subsection referred to as the "new share", has been acquired by a corporation in exchange for another share, in this subsection referred to as the "old share", by means of a transaction to which section 53, 79a, 80 or 81 applies, any reference in subsection 3 to a share shall be deemed to include a reference to the new share and the old share as though they were the same share, except that the aggregate of the amounts to be deducted from a loss otherwise determined on any new share of the corporation, in respect of dividends received by it on the share, shall be deemed to be the aggregate of,

- (a) the aggregate of amounts that would be determined under subsection 3 in respect of taxable dividends or capital dividends received by it on the new share only; and
- (b) that proportion of the aggregate of all amounts received by it in respect of taxable dividends or capital dividends on all the old shares exchanged at the particular time that,
 - (i) the adjusted cost base to it of the new share immediately after the exchange,
 is of,
 - (ii) the adjusted cost base to it of all new shares immediately after the exchange.

Subsection 4. This amendment adds provisions to establish the amount of dividends that must be deducted from the loss on sale of a share held for investment purposes, where that share was received by the corporation in exchange for a share previously held. The amendment provides for a situation not covered by section 100(3), that is, where, because of an exchange, the tax on an old share was deferred until the new share received in the exchange was sold.

SECTION 53. This amendment makes applicable certain provisions of the *Income Tax Act* (Canada) to provide for the deduction from income of certain dividends (and applicable foreign taxes) received by a corporation from its foreign affiliate.

SECTION 54. This amendment adds a new section 100*b* to the Act to allow corporations to deduct, from their income earned in Ontario, after all other deductions have been claimed, their contributions to political parties and candidates. Such deduction may not exceed \$4,000 in any fiscal year, and undeducted amounts may be carried forward to subsequent fiscal years.

53. The said Act is further amended by adding thereto the following section: s. 100a,
enacted

100a. It is hereby declared that the provisions of section 113 of the *Income Tax Act* (Canada) shall apply to this Act Deduction re
dividends
from foreign
affiliates
1970-71,
c. 63 (Can.) for the purposes of computing the taxable income for a fiscal year of a corporation resident in Canada.

54. The said Act is further amended by adding the following section: s. 100b,
enacted

100b.—(1) In computing a corporation's income for a fiscal year, there may be deducted, from that portion, if any, of the income earned in Ontario remaining after all other applicable deductions permitted or allowed by this Act have been claimed, the aggregate of amounts (the aggregate of which amounts is hereafter in this subsection referred to as "the amount contributed") that are contributions for the purposes of *The Election Finances Reform Act, 1975* and that are contributed in the fiscal year, and in any previous fiscal year ending after the 12th day of February, 1975 to the extent that such contributions have not already been deducted, by the corporation to registered candidates at an election of a member or members to serve in the Assembly, to registered constituency associations or to registered parties, provided that, Election
contributions
1975, c. ...

(a) such deduction shall not exceed the least of,

(i) the amount contributed, and

(ii) that portion of the income earned in Ontario remaining after all other applicable deductions permitted or allowed by this Act have been claimed, and

(iii) \$4,000; and

(b) payment of each amount that is included in the amount contributed is proven by filing with the Minister receipts that are signed by a recorded agent of the registered candidate, registered constituency association or registered party, as the case may be, and that contain the information prescribed to be shown on such receipts.

(2) In this section,

Interpre-
tation

(a) "recorded agent" means a person on record with the Commission on Election Contributions and Expenses as being authorized to accept contributions on behalf of a political party, constituency association or candidate registered under *The Election Finances Reform Act, 1975*;

(b) "registered candidate" with respect to an election of a member or members to serve in the Assembly, means a person who has been registered as a candidate for such election by the Commission on Election Contributions and Expenses and whose name has not been deleted from the register of candidates maintained by the Commission with respect to such election;

(c) "registered constituency association" means a registered constituency association within the meaning given to that expression by *The Election Finances Reform Act, 1975*;

(d) "registered party" means a registered party within the meaning given to that expression by *The Election Finances Reform Act, 1975*.

1975, c. ...

s. 101 (a) (iv),
amended

55.—(1) Subclause iv of clause *a* of section 101 of the said Act is amended by striking out "and" in the eleventh line.

s. 101 (a) (v),
re-enacted

(2) Subclause v of clause *a* of the said section 101 is repealed and the following substituted therefor:

(v) proceeds of disposition that become receivable by it in the fiscal year in respect of the disposition of a property that is a Canadian resource property or that would have been such a property if the property had been acquired by it after 1971, to the extent that those proceeds were not included in computing its income from a business carried on by it in Canada,

(vi) amounts required by subsection 1*a* of section 17 to be included in computing its income for the year in respect of dispositions of timber resource properties to the extent that those amounts were not included in computing its income from a business carried on by it in Canada,

(vii) the amount, if any, by which any amount required by subsection 1*b* of section 85 to be included in computing its income for the year as proceeds of the disposition of a right to a share of the income or loss under an agreement referred to in clause *a* of subsection 1*a* of section 85 exceeds the amount in respect of that right that would, if the corporation were liable to taxation by virtue of subsection 1 of section 2 throughout the fiscal year, be

SECTION 55. These amendments to section 101 of the Act require non-resident corporations to include in income amounts receivable from the sale of Canadian resource property and profits from the sale of a timber resource property, from the sale of a right to share in the income of a partnership of which it is not a member, and from the sale of an option in respect of property in Canada.

SECTION 56. This amendment repeals the deduction previously allowed with respect to logging tax. Since *The Logging Tax Act* has been repealed, this deduction is no longer necessary.

SECTION 57. This amendment increases to \$100,000 the maximum portion of a corporation's income in respect of which it can claim the small business deduction.

SECTION 58. This provision, relating to non-resident-owned investment corporations, amends the definition of "Canadian property" to make it clear that that expression includes taxable Canadian property.

SECTION 59. This amendment, relating to patronage dividends, provides that, where a person sells goods through a government marketing board to a co-operative or similar corporation of which he is a member, he shall be deemed to have sold the goods directly to the co-operative or similar corporation for the purpose of determining the patronage dividends paid by that corporation.

deductible under subsection 1c of section 85 in computing its income for the year.

- (3) Clause *b* of the said section 101, as amended by the s. 101 (b), amended Statutes of Ontario, 1973, chapter 157, section 28, is further amended by inserting after "property" in the fifth line "or an interest therein".

- (4) The said section 101 is amended by adding thereto the s. 101, amended following subsection:

(2) For the purposes of this section, a property described in subclauses i to ix of clause *b* of subsection 1 of section 115 of the *Income Tax Act* (Canada) shall be deemed to include an option in respect of such property whether or not such property is in existence. Property deemed to include option 1970-71, c. 63 (Can.)

- 56.** Section 105 of the said Act is repealed. s. 105, repealed

- 57.** Subsection 2 of section 106*a* of the said Act, as enacted by the Statutes of Ontario, 1974, chapter 75, section 7, is amended by striking out "\$50,000" in the fifth line and inserting in lieu thereof "\$100,000". s. 106*a* (2), amended

- 58.** Clause *a* of subsection 5 of section 110 of the said Act is s. 110 (5) (a), re-enacted repealed and the following substituted therefor:

(a) "Canadian property" means,

(i) property of a corporation that would be taxable Canadian property if at no time in the year the corporation had been resident in Canada, and

(ii) any other property not being foreign property within the meaning given to that expression by section 206 of the *Income Tax Act* (Canada).

- 59.** Section 112 of the said Act is amended by adding thereto the s. 112, amended following subsection:

(7) For the purposes of this section, where, Patronage dividends

(a) a person has sold or delivered a quantity of goods or products to a marketing board established by or pursuant to a law of Canada or of a province;

(b) the marketing board has sold or delivered the same quantity of goods or products of the same class, grade or quality to a corporation of which the person is a member; and

- (c) the corporation has credited that person with an amount based on the quantity of goods or products of that class, grade or quality sold or delivered to it by the marketing board,

the quantity of goods or products referred to in clause *c* shall be deemed to have been sold or delivered by that person to the corporation and to have been acquired by the corporation from that person.

s. 114 (3),
re-enacted

- 60.**—(1) Subsection 3 of section 114 of the said Act is repealed and the following substituted therefor:

Amount
paid in
respect of
member's
share deemed
paid as
interest

(3) Notwithstanding any other provisions of this Act, any amount paid or payable by a credit union to a member thereof in respect of his share in the credit union, other than any such amount paid or payable as or on account of a reduction of the paid-up capital, redemption, acquisition or cancellation by the credit union of the member's share to the extent of the paid-up capital of his share, shall be deemed to have been paid or payable, as the case may be, by the credit union as interest and, when received by the member, to have been received by him as interest.

Application
of s. 78

(3a) Subsections 2, 3 and 4 of section 78 do not apply to deem a dividend to have been paid by a corporation to any of its shareholders, or to deem any of the shareholders of a corporation to have received a dividend on any shares of the capital stock of the corporation, if at the time the dividend would, but for this subsection, be deemed by subsection 2, 3, or 4 of section 78 to have been so paid or received, as the case may be, the corporation was a credit union.

s. 114 (5) (a),
amended

- (2) Clause *a* of subsection 5 of the said section 114 is amended by inserting after "union" in the sixteenth line "of the same class and for this purpose a class includes all members for whom the rates of interest payable in relation to the money borrowed are the same".

s. 114 (5) (b),
re-enacted

- (3) Clause *b* of subsection 5 of the said section 114 is repealed and the following substituted therefor:

(b) "credit union" means a corporation, association or federation incorporated or organized as a credit union or co-operative credit society if,

- (i) it derived all or substantially all of its revenues from,

(A) loans made to, or cashing cheques for, members,

SECTION 60.—Subsections 1 and 2. These amendments, relating to credit unions, expand the existing provisions and require such corporations to report all payments which are to members in respect of shares (with certain exceptions) and in respect of a refund of interest on a loan. Such amounts must be included by the members in their income.

Subsection 3. This provision amends the definition of "credit union" by extending the sources from which the revenue can be derived and requiring that substantially all of the revenue be derived from such sources (which is more restrictive than the previous provision). In addition certain types of federations and corporations will now be recognized as credit unions.

- (B) bonds or securities of or loans to, or guaranteed by the Government of Canada or a province, a Canadian municipality, or an agency thereof, or bonds or securities of or loans to a municipal or public body performing a function of government in Canada or an agency thereof,
 - (C) bonds of a corporation, commission or association not less than 90 per cent of the shares or capital of which was owned by the Government of Canada or a province or by a municipality in Canada,
 - (D) loans to or deposits with a bank to which the *Bank Act* (Canada) or the *Quebec Savings Banks Act* (Canada) applies, or loans to or deposits with a corporation licensed or otherwise authorized under a law of Canada or a province to carry on in Canada the business of offering to the public its services as trustee, R.S.C. 1970,
cc. B-1, B-4
 - (E) charges, fees and dues levied against members or members of members, or
 - (F) loans made to or deposits with a credit union or co-operative credit society of which it is a member, or
- (ii) all or substantially all the members thereof were corporations, associations or federations,
- (A) incorporated as credit unions or co-operative credit societies, all of which derived all or substantially all of their revenues from the sources described in subclause i or all of whose shares are owned by credit unions, co-operatives or a combination thereof,
 - (B) incorporated, organized or registered under, or governed by a law of Canada or a province with respect to co-operatives, or
 - (C) incorporated or organized for charitable purposes,

or were corporations, associations or federations no part of the income of which was payable to, or otherwise available for the personal benefit of, any shareholder or member thereof.

s. 117a,
enacted

- 61.** The said Act is further amended by adding thereto the following section:

Deemed not
to be a
private
corporation

117a. Notwithstanding any other provision of this Act, an insurance corporation, other than a life insurance corporation, that would but for this section be a private corporation shall be deemed not to be a private corporation except for the purposes of section 106a.

s. 120,
amended

- 62.** Section 120 of the said Act is amended by adding thereto the following subsection:

Property of
a trust
governed by
a revoked
plan

(9a) Where a trust governed by a revoked plan,

(a) disposes of property to a corporation for a consideration less than the fair market value of the property at the time of the transaction, or for no consideration; or

(b) acquires property from a corporation for a consideration greater than the fair market value of the property at the time of the transaction,

the difference between such fair market value and the consideration, if any, shall be deemed to be an amount received by the corporation from a trustee under the plan and that amount shall be included in the corporation's income for a fiscal year.

s. 122 (1)
(e) (iii),
amended

- 63.**—(1) Subclause iii of clause *e* of subsection 1 of section 122 of the said Act is amended by adding "or" at the end of sub-subclause A, by striking out sub-subclauses B, C and D and by substituting therefor the following:

(B) a gift to any donee described in clause *a* or *b* of subsection 1 of section 98,

.

s. 122 (1) (i),
amended

- (2) Clause *i* of subsection 1 of the said section 122, as re-enacted by the Statutes of Ontario, 1973, chapter 42, section 9, is amended by adding at the end thereof "unless the proprietor, member or shareholder was a club, society or

SECTION 61. This amendment deems insurance corporations, other than life insurance corporations, which would otherwise be private corporations, to be public corporations except for the purposes of the small business deduction under section 106*a*. Life insurance corporations are already deemed to be public corporations.

SECTION 62. This amendment will require a corporation to include in its income any difference between the fair market value and the amount actually paid or received by it in purchasing or selling any property to a trustee of a deferred profit sharing plan, the registration of which has been revoked.

SECTION 63.—Subsection 1. This amendment increases the number of organizations to which a non-profit corporation may make gifts which will be considered as being for charitable purposes and to disallow gifts made to other non-profit corporations.

Subsection 2. This amendment allows corporations that are clubs, societies, and similar organizations, to distribute funds to members that are Canadian amateur athletic clubs without losing their tax-exempt status.

Subsections 3 and 4. This amendment requires non-profit corporations to include in their income gifts received from other non-profit corporations or from charitable trusts.

SECTION 64. In this amendment the provisions relating to instalment payments of tax are amended to accelerate the final instalment of tax, so that the final instalment will be payable three months after the end of the fiscal year in the case of small business corporations, and two months after the end of the fiscal year for any other corporation.

association the primary purpose and function of which was the promotion of amateur athletics in Canada”.

- (3) Clause *b* of subsection 6 of the said section 122 is amended <sup>s. 122 (6) (b),
amended</sup> by inserting after “corporation” in the second line “including gifts received from a person described in clause *e* of subsection 1 or paragraph *h* of subsection 1 of section 149 of the *Income Tax Act* (Canada)”. <sup>1970-71,
c. 63 (Can.)</sup>

- (4) Subclause ii of clause *b* of subsection 6 of the said section 122 is amended by inserting after “donor” in the second line “other than a person described in clause *e* of subsection 1 or paragraph *h* of subsection 1 of section 149 of the *Income Tax Act* (Canada)” and by inserting after “person” in the fifth line “other than a person described in clause *e* of subsection 1 or paragraph *h* of subsection 1 of section 149 of the *Income Tax Act* (Canada)”. <sup>S. 122 (6)
(b) (ii),
amended</sup>

- 64.**—(1) Subsections 2 and 3 of section 148 of the said Act are <sup>s. 148 (2, 3),
re-enacted</sup> repealed and the following substituted therefor:

(2) Every corporation on which a tax is imposed by this <sup>Dates of
payment</sup> Act shall pay to the Treasurer of Ontario,

(a) on or before the fifteenth day of each of the third, fifth, seventh, ninth and eleventh months of the fiscal year in respect of which the tax is payable and on or before the fifteenth day of the first month of the fiscal year following that in respect of which the tax is payable, an instalment equal to one-sixth of the tax payable as estimated by it at the rates for the fiscal year on,

(i) its estimated taxable income and other subject of tax for the fiscal year, or

(ii) its taxable income and other subject of tax for the immediately preceding fiscal year; and

(b) the balance, if any, of the tax payable for the fiscal year as estimated by it under subsection 2 of section 145,

(i) on or before the last day of the third month of the fiscal year following that in respect of which the tax is payable, where an amount was deducted by virtue of section 125 of the *Income Tax Act* (Canada) in computing the tax payable by the corporation under Part 1 of that Act for the immediately preceding fiscal year, or

- (ii) on or before the last day of the second month of the fiscal year following that in respect of which the tax is payable, in any other case.

s. 148 (4),
amended

(2) Subsection 4 of the said section 148 is amended by striking out "Notwithstanding subsections 2 and 3 and" in the first line and inserting in lieu thereof "Notwithstanding subsection 2" and by striking out "or 3" in the fifth and sixth lines.

s. 149 (2),
amended

65. Subsection 2 of section 149 of the said Act is amended by striking out "3" in the first line.

s. 167 (1),
amended

66.—(1) Subsection 1 of section 167 of the said Act, as amended by the Statutes of Ontario, 1973, chapter 157, section 32, is further amended by striking out "1961" in the amendment of 1973 and inserting in lieu thereof "1967".

s. 167 (2),
amended

(2) Subsection 2 of the said section 167, as amended by the Statutes of Ontario, 1973, chapter 157, section 32, is further amended by striking out "1961" in the amendment of 1973 and inserting in lieu thereof "1967".

Commence-
ment and
application

67.—(1) Subsections 2 and 9 of section 1, section 5, subsections 2 and 3 of section 8, subsection 2 of section 12, section 13, subsection 2 of section 23, subsections 9, 11 and 12 of section 28, section 30, subsection 1 of section 34, sections 37, 61 and 62, and subsections 1, 3 and 4 of section 63 shall be deemed to have come into force on the 1st day of January, 1974 and apply to corporations in respect of all fiscal years ending after 1973.

Idem

(2) Subsections 3, 4 and 8 of section 1, subsections 6 to 10 of section 6, subsection 3 of section 7, subsections 8 and 9 of section 8, sections 9, 16, 18 and 21, subsections 2 to 5 and 7 to 12 of section 22, subsections 1, 4 and 5 of section 23, subsection 8 of section 28, subsection 2 of section 34, subsection 1 of section 43, sections 45, 46, 47, 48, 49, 50 and 51, subsections 1 and 2 of section 52, section 53, subsection 2 of section 55, sections 58, 59 and 60, and subsection 2 of section 63 shall be deemed to have come into force on the 1st day of January, 1972 and apply to corporations in respect of all fiscal years ending after 1971.

Idem

(3) Sections 32, 56 and 65 shall come into force on the day this Act receives Royal Assent.

SECTION 65. This amendment is complementary to the amendments contained in section 64 of this Bill.

SECTION 66. This provision amends the lien section of the Act to provide that the lien will no longer apply to taxes, interest, penalties and other amounts imposed for fiscal years commencing prior to 1968.

- (4) Subsection 1 of section 1 shall be deemed to have come ^{Idem} into force on the 1st day of January, 1975 and applies to corporations in respect of all fiscal years ending after 1974.
- (5) Subsection 5 of section 1 shall be deemed to have come ^{Idem} into force on the 7th day of May, 1974 and is applicable for the purpose of calculating the paid-up capital of a corporation at the end of its fiscal year ending in 1971 and at any time after the 6th day of May, 1974.
- (6) Subsection 6 of section 1 shall be deemed to have come ^{Idem} into force on the 7th day of April, 1975.
- (7) Subsection 7 of section 1 shall be deemed to have come ^{Idem} into force on the 1st day of January, 1972 and applies to corporations in respect of all fiscal years ending after 1971.
- (8) Section 2 shall be deemed to have come into force on ^{Idem} the 7th day of May, 1974 and applies to corporations in respect of all fiscal years ending after the 6th day of May, 1974.
- (9) Section 3 shall be deemed to have come into force on ^{Idem} the 7th day of May, 1974 and applies to corporations in respect of all fiscal years ending after the 6th day of May, 1974.
- (10) Subsection 1 of section 4 shall be deemed to have come ^{Idem} into force on the 19th day of November, 1974 and applies to corporations in respect of all fiscal years ending after the 18th day of November, 1974.
- (11) Subsection 2 of section 4 shall be deemed to have come ^{Idem} into force on the 8th day of April, 1975 and applies to corporations with respect to all fiscal years that end after the 7th day of April, 1975 except that with respect to the fiscal year that ends after the 7th day of April, 1975 and that includes that day the amount to be determined under clause o of subsection 1 of section 16 of the said Act shall be that portion of any amount that becomes receivable in that fiscal year or the fair market value of any property that becomes receivable in that fiscal year that the number of days of that fiscal year that follow the 7th day of April, 1975 bears to the total number of days of that fiscal year.
- (12) Subsection 3 of section 4 shall be deemed to have come ^{Idem} into force on the 1st day of January, 1972 and applies to corporations in respect of all fiscal years ending after

1971 and, except in the case of a credit union, any interest that was not included in computing a corporation's income for a fiscal year ending before 1975 but that would have been included if subsection 3 of section 16, as enacted by subsection 3 of section 4 of this Act, had applied shall be included in computing its income for its fiscal year ending in 1975.

- Idem (13) Subsections 1 and 2 of section 6 shall be deemed to have come into force on the 7th day of May, 1974 and apply in respect of timber resource property acquired after the 6th day of May, 1974.
- Idem (14) Subsection 3 of section 6 shall be deemed to have come into force on the 7th day of May, 1974 and applies in respect of amounts that become receivable after the 6th day of May, 1974.
- Idem (15) Subsection 4 of section 6 shall be deemed to have come into force on the 1st day of January, 1972 and applies to acquisitions of property occurring after the 18th day of November, 1974 and to all fiscal years of corporations ending after 1971 in respect of the repayment on, before or after January 1, 1972 of grants, subsidies or other assistance.
- Idem (16) Subsection 5 of section 6 and subsection 2 of section 7 shall be deemed to have come into force on the 7th day of May, 1974 and apply to corporations in respect of all fiscal years ending after the 6th day of May, 1974.
- Idem (17) Subsection 11 of section 6 shall be deemed to have come into force on the 7th day of May, 1974 and applies in respect of acquisitions of property occurring after the 6th day of May, 1974.
- Idem (18) Subsection 1 of section 7 shall be deemed to have come into force on the 8th day of April, 1975 and applies to corporations with respect to all fiscal years that end after the 7th day of April, 1975 except that with respect to the fiscal year that ends after the 7th day of April, 1975 and that includes that day, the amount to be determined under clause *n* of subsection 1 of section 22 of the said Act shall be that portion of the amount determined under that clause for that fiscal year that the number of days of that fiscal year that follow the 7th day of April, 1975 bears to the total number of days of that fiscal year.
- Idem (19) Subsection 1 of section 8 shall be deemed to have come into force on the 19th day of November, 1974 and applies

to sales occurring and debts arising after the 18th day of November, 1974.

- (20) Subsections 4, 5, 6 and 7 of section 8 shall be deemed to have come into force on the 7th day of May, 1974 and apply in respect of dispositions occurring after the 6th day of May, 1974. ^{Idem}
- (21) Section 10 shall be deemed to have come into force on the 7th day of May, 1974 and applies to sales of debts occurring after the 6th day of May, 1974. ^{Idem}
- (22) Section 11 shall be deemed to have come into force on the 7th day of May, 1974 and applies to sales occurring after the 6th day of May, 1974. ^{Idem}
- (23) Subsection 1 of section 12 shall be deemed to have come into force on the 1st day of January, 1975 and applies to corporations in respect of all fiscal years ending after 1974. ^{Idem}
- (24) Section 14 shall be deemed to have come into force on the 7th day of May, 1974 and applies to timber resource property acquired after the 6th day of May, 1974. ^{Idem}
- (25) Section 15 shall be deemed to have come into force on the 7th day of May, 1974 and applies to dispositions occurring after the 6th day of May, 1974. ^{Idem}
- (26) Section 17 shall be deemed to have come into force on the 7th day of May, 1974 and applies to amounts that have become receivable after the 6th day of May, 1974. ^{Idem}
- (27) Section 19 shall be deemed to have come into force on the 7th day of May, 1974 and applies to extensions or renewals granted after the 6th day of May, 1974. ^{Idem}
- (28) Section 20 shall be deemed to have come into force on the 7th day of May, 1974 and applies to exchanges of property occurring after the 6th day of May, 1974. ^{Idem}
- (29) Subsection 1 of section 22 shall be deemed to have come into force on the 1st day of January, 1972 and applies in respect of contributions of capital occurring after 1971 in computing the adjusted cost base of a property after 1971. ^{Idem}
- (30) Subsection 6 of section 22 shall be deemed to have come into force on the 1st day of January, 1972 and applies in respect of contributions of capital occurring before the 7th day of May, 1974 in computing the adjusted cost base of property after 1971. ^{Idem}

- Idem (31) Subsection 13 of section 22 shall be deemed to have come into force on the 19th day of November, 1974 and is applicable for the purpose of computing the adjusted cost base of a property after 1971 in respect of acquisitions of property occurring after the 18th day of November, 1974 and in respect of the repayment after 1971 of grants, subsidies or other assistance.
- Idem (32) Subsection 14 of section 22 shall be deemed to have come into force on the 7th day of May, 1974 and applies in respect of transactions occurring after the 6th day of May, 1974.
- Idem (33) Subsection 3 of section 23 shall be deemed to have come into force on the 19th day of November, 1974 and applies to dispositions of property occurring after the 18th day of November, 1974.
- Idem (34) Sections 24 and 26 shall be deemed to have come into force on the 1st day of January, 1975 and apply to corporations in respect of all fiscal years ending after 1974.
- Idem (35) Section 25 shall be deemed to have come into force on the 7th day of May, 1974 and applies in respect of dispositions occurring after the 6th day of May, 1974.
- Idem (36) Section 27 shall be deemed to have come into force on the 19th day of November, 1974 and applies to corporations in respect of all fiscal years ending after the 18th day of November, 1974.
- Idem (37) Subsections 1 to 5 and 7 of section 28 shall be deemed to have come into force on the 7th day of May, 1974 and apply to corporations in respect of all fiscal years ending after the 6th day of May, 1974.
- Idem (38) Subsection 6 of section 28 shall be deemed to have come into force on the 7th day of May, 1974 and applies to transactions occurring after the 6th day of May, 1974.
- Idem (39) Subsection 10 of section 28 shall be deemed to have come into force on the 1st day of January, 1974 and applies to corporations in respect of all fiscal years ending after 1973 except that it shall not apply to any right or interest in property of a trust acquired before the 19th day of November, 1974 in respect of which a deduction has been claimed in respect of a fiscal year ending before 1976 under section 63 of the said Act.
- Idem (40) Section 29 shall be deemed to have come into force on the 7th day of May, 1974 and applies in respect of appro-

priations, dispositions or acquisitions of property occurring after the 6th day of May, 1974.

- (41) Section 31 shall be deemed to have come into force on ^{Idem} the 7th day of May, 1974 and applies to exchanges of bonds occurring after the 6th day of May, 1974.
- (42) Section 33 shall be deemed to have come into force on ^{Idem} the 7th day of April, 1975 and applies to amounts or property paid or payable after the 6th day of April, 1975.
- (43) Section 35 shall be deemed to have come into force on ^{Idem} the 19th day of November, 1974 and applies to dividends deemed to have been paid after the 18th day of November, 1974.
- (44) Section 36 shall be deemed to have come into force on ^{Idem} the 19th day of November, 1974 and applies to payments made after the 18th day of November, 1974.
- (45) Section 38 shall be deemed to have come into force on ^{Idem} the 7th day of May, 1974 and applies to dispositions of property occurring after the 6th day of May, 1974.
- (46) Section 39, except subsection 3 of section 79a of the said ^{Idem} Act, as enacted by section 39 of this Act, shall be deemed to have come into force on the 7th day of May, 1974 and applies with respect to transactions occurring after the 6th day of May, 1974.
- (47) Subsection 3 of section 79a of the said Act, as enacted by ^{Idem} section 39 of this Act shall be deemed to have come into force on the 1st day of January, 1972 and applies to corporations in respect of all fiscal years ending after 1971.
- (48) Section 40 shall be deemed to have come into force on ^{Idem} the 7th day of May, 1974 and applies in respect of dispositions after the 6th day of May, 1974 by a person of shares of any class of the capital stock of a corporation in the course of a reorganization of the capital of the corporation.
- (49) Subsections 1 and 3 of section 41 shall be deemed to ^{Idem} have come into force on the 1st day of January, 1972 and apply to amalgamations occurring after 1971.
- (50) Subsections 2 and 4 to 15 of section 41 shall be deemed ^{Idem} to have come into force on the 7th day of May, 1974 and apply to amalgamations occurring after the 6th day of May, 1974, except that subsection 8 of section 81 of the

said Act, as enacted by subsection 15 of section 41 of this Act, shall be deemed to have come into force on the 1st day of January, 1972 and applies in respect of mergers occurring after 1971.

- Idem (51) Subsections 1 to 7 of section 42 shall be deemed to have come into force on the 7th day of May, 1974 and apply in respect of any winding-up occurring after the 6th day of May, 1974.
- Idem (52) Subsection 8 of section 42 shall be deemed to have come into force on the 1st day of January, 1972 and applies in respect of any winding-up occurring after 1971.
- Idem (53) Subsection 2 of section 43 shall be deemed to have come into force on the 7th day of May, 1974 and applies for the purpose of computing the paid-up capital of a corporation at the end of its fiscal year ending in 1971 and at any time after the 6th day of May, 1974.
- Idem (54) Subsections 3, 4 and 5 of section 43 shall be deemed to have come into force on the 7th day of May, 1974 and are applicable for the purpose of computing paid-up capital deficiency after the 6th day of May, 1974.
- Idem (55) Subsection 6 of section 43 shall be deemed to have come into force on the 7th day of May, 1974 and is applicable in computing 1971 capital surplus on hand after the 6th day of May, 1974.
- Idem (56) Subsection 7 of section 43 shall be deemed to have come into force on the 7th day of May, 1974 and is applicable in computing paid-up capital deficiency or 1971 capital surplus on hand after the 6th day of May, 1974, except that subsection 4 of section 83 of the said Act, as enacted by subsection 7 of section 43 of this Act, shall be deemed to have come into force on the 1st day of January, 1972 and applies to corporations in respect of all fiscal years ending after 1971.
- Idem (57) Section 44 shall be deemed to have come into force on the 7th day of May, 1974 and is applicable for the purpose of computing the paid-up capital of a corporation at the end of its fiscal year ending in 1971 and at any time after the 6th day of May, 1974.
- Idem (58) Subsections 3 and 4 of section 52 shall be deemed to have come into force on the 7th day of May, 1974 and apply to losses arising after the 6th day of May, 1974.

(59) Section 54 shall be deemed to have come into force at ^{Idem} 3:00 o'clock in the afternoon on the 13th day of February, 1975 and applies to corporations in respect of all fiscal years ending after February 12th, 1975.

(60) Subsections 1, 2 and 4 of section 55 shall be deemed to ^{Idem} have come into force on the 7th day of May, 1974.

(61) Section 57 shall be deemed to have come into force on ^{Idem} the 8th day of April, 1975 and applies to corporations in respect of all fiscal years ending after the 7th day of April, 1975, except that with respect to the fiscal year that ends after the 7th day of April, 1975 and that includes that day, the following rules apply:

(a) determine the deduction under section 106a of the said Act as that section stood prior to the 8th day of April, 1975 that, but for the rules made applicable by this section, would be deductible by the corporation for that fiscal year on the assumption that that section was applicable to that fiscal year;

(b) determine the proportion of the amount determined under clause *a* that the number of days of the fiscal year prior to the 8th day of April, 1975 bears to the total number of days of the fiscal year;

(c) determine the deduction under section 106a of the said Act as amended by this Act that, but for the rules made applicable by this Part, would be deductible by the corporation for that fiscal year on the assumption that that section was applicable to that fiscal year.

(d) determine the proportion of the amount determined under clause *c* that the number of days of that fiscal year that follow the 7th day of April, 1975 bears to the total number of days of that fiscal year;

(e) determine the aggregate of the amounts determined under clauses *b* and *d* in respect of the corporation;

and the aggregate determined under clause *e* is the amount that is deductible by a corporation, under section 106a of the said Act as amended by this Act, for its fiscal year that ends after the 7th day of April, 1975 and that includes that day.

(62) Section 64 shall come into force on the 1st day of August, ^{Idem} 1975.

Idem	(63) Section 66 shall be deemed to have come into force on the 1st day of January, 1975.
Short title	68. This Act may be cited as <i>The Corporations Tax Amendment Act, 1975</i> .

An Act to amend
The Corporations Tax Act, 1972

1st Reading

April 7th, 1975

2nd Reading

3rd Reading

THE HON. A. K. MEEN
Minister of Revenue

(Government Bill)

5TH SESSION, 29TH LEGISLATURE, ONTARIO
24 ELIZABETH II, 1975

An Act to amend The Corporations Tax Act, 1972

THE HON. A. K. MEEN
Minister of Revenue

(Reprinted as amended by the Administration of Justice Committee)

EXPLANATORY NOTES

SECTION 1. This section amends a number of the definitions in subsection 1 of section 1 of the Act.

Subsection 1. Amends the definition of "bank" in paragraph 6 of section 1 (1) of the Act to make it clear that the expression "bank" includes only banks to which the *Bank Act* (Canada) or the *Quebec Savings Banks Act* (Canada) apply.

Subsection 2. A definition of "Canadian Resource Property" is added to section 1 of the Act so that the definition in section 63 of this expression will apply to this expression where it occurs elsewhere in the Act.

Subsection 3. A definition of "credit union" is added to section 1 of the Act so that the definition in section 114 of this expression will apply to this expression where it occurs elsewhere in the Act.

Subsection 4. A definition of "foreign affiliate" is added to make the definition of that expression in the *Income Tax Act* (Canada) apply to *The Corporations Tax Act*; and a definition of "international traffic" is added to clarify the meaning of that expression which appears in section 75 (1) (c) of the Act.

An Act to amend The Corporations Tax Act, 1972

HER MAJESTY, by and with the advice and consent of the Legislative Assembly of the Province of Ontario, enacts as follows:

- 1.—(1) Paragraph 6 of subsection 1 of section 1 of *The Corporations Tax Act, 1972*, being chapter 143, is repealed and the following substituted therefor: s. 1 (1), par. 6,
re-enacted

6. "bank" means a bank to which the *Bank Act* (Canada) or the *Quebec Savings Banks Act* (Canada) applies. R.S.C. 1970,
c. B-1
R.S.C. 1970,
c. B-4

- (2) Subsection 1 of the said section 1, as amended by the Statutes of Ontario, 1973, chapter 157, section 1, and 1974, chapter 75, section 1, is further amended by adding thereto the following paragraph: s. 1 (1),
amended

9a. "Canadian resource property" has the meaning given to that expression by section 63.

- (3) Subsection 1 of the said section 1 is further amended by adding thereto the following paragraph: s. 1 (1),
amended

17a. "credit union" has the meaning given to that expression by subsection 5 of section 114.

- (4) Subsection 1 of the said section 1 is further amended by adding thereto the following paragraphs: s. 1 (1),
amended

33a. "foreign affiliate", at any time, of a corporation has the meaning given to that expression under paragraph d of subsection 1 of section 95 of the *Income Tax Act* (Canada); 1970-71,
c. 63 (Can.)

.

38a. "international traffic" means in respect of a non-resident corporation carrying on the business of

transporting passengers or goods, any voyage made in the course of that business where the principal purpose of the voyage is to transport passengers or goods,

i. from Canada to a place outside Canada,

ii. from a place outside Canada to Canada, or

iii. from a place outside Canada to another place outside Canada.

s. 1 (1),
amended

- (5) Subsection 1 of the said section 1 is further amended by adding thereto the following paragraph:

50a. "paid-up capital" has the meaning given to that expression by subsection 1 of section 83 but such meaning does not apply for the purposes of section 106a or Part III of this Act.

s. 1 (1),
par. 66,
re-enacted

- (6) Paragraph 66 of subsection 1 of the said section 1 is repealed and the following substituted therefor:

66. "resident in Canada" means "resident in Canada" as that term is defined in the *Income Tax Act* (Canada).

1970-71,
c. 63 (Can.)

s. 1 (1),
par. 68,
re-enacted

- (7) Paragraph 68 of subsection 1 of the said section 1 is repealed and the following substituted therefor:

68. "share" means a share or fraction thereof of the capital stock of a corporation.

s. 1 (1),
par. 76,
re-enacted

- (8) Paragraph 76 of subsection 1 of the said section 1 is repealed and the following substituted therefor:

76. "taxable Canadian property" has the meaning given to that expression by subsection 1 of section 115 of the *Income Tax Act* (Canada) except that, for the purposes of section 2 the expression "taxable Canadian property" includes,

i. a Canadian resource property, within the meaning given to that expression by subsection 12 of section 63, or any property that would have been a Canadian resource property, within the meaning given to that expression by subsection 12 of section 63, if it had been acquired after 1971,

ii. a timber resource property,

Subsection 5. A definition of "paid-up capital" is added to make it clear that the definition in section 83 of this expression applies where this expression occurs elsewhere in the Act, other than in section 106a or Part III of the Act.

Subsection 6. "resident in Canada" is redefined to make it clear that the definition of this expression in the *Income Tax Act* (Canada) is applicable to *The Corporations Tax Act* and that this definition will not, in its application to *The Corporations Tax Act*, be affected by any tax treaties that Canada has with other countries.

Subsection 7. The expression "share" is redefined to make it clear that "share" includes a fraction of a share.

Subsection 8. "taxable Canadian property" is redefined to include a timber resource property.

Subsection 9. In addition a definition of "timber royalty" is added to define that expression which occurs in section 2 of the Act as amended by this Bill.

SECTION 2. This section amends section 2 of the Act to make the provisions of that subsection applicable to non-resident corporations that own timber resource property in Ontario or receive royalties from property in Ontario.

SECTION 3. Section 3 of the Act is amended to include a reference to "timber resource property"—this amendment is complementary to the amendments to section 2 of the Act.

iii. an income interest in a trust resident in Canada, and

iv. a right to a share of income or loss under an agreement referred to in clause *a* of subsection 1*a* of section 85.

- (9) Subsection 1 of the said section 1 is further amended by adding thereto the following paragraphs: ^{s. 1 (1), amended}

83*a*. "timber resource property" has the meaning given to that expression by clause *da* of subsection 17 of section 17;

83*b*. "timber royalty" includes any consideration for a right under or pursuant to which a right to cut or take timber from a timber limit in Canada is obtained or derived, to the extent that such consideration is dependent upon, or computed by reference to, the amount of timber cut or taken.

- 2.—(1) Clause *b* of subsection 2 of section 2 of the said Act is repealed and the following substituted therefor: ^{s. 2 (2) (b), re-enacted}

(*b*) owned real property, timber resource property or a timber limit in Ontario the income from which arose from the sale or rental thereof or is a royalty or timber royalty; or

.

- (2) Clause *b* of subsection 3 of the said section 2 is repealed and the following substituted therefor: ^{s. 2 (3) (b), re-enacted}

(*b*) owned real property, timber resource property or a timber limit in Ontario the income from which arose from the sale or rental thereof or is a royalty or a timber royalty and the corporation has elected to file a return of income under Part I of the *Income Tax Act* (Canada) pursuant to section 216 of that Act; or ^{1970-71, c. 63 (Can.)}

.

3. Section 3 of the said Act is repealed and the following substituted therefor: ^{s. 3, re-enacted}

3. For the purposes of subsection 2 or 3 of section 2, a corporation "owned real property, timber resource property or a timber limit" if it had a legal, equitable or beneficial interest in the real property, timber resource property or timber limit. ^{Interpretation}

s. 16 (1) (b),
re-enacted

4.—(1) Clause *b* of subsection 1 of section 16 of the said Act is repealed and the following substituted therefor:

Amounts
receivable
in respect
of services,
etc.,
rendered

(b) any amount receivable by the corporation in respect of property sold or services rendered in the course of a business in the year, notwithstanding that the amount or any part thereof is not due until a subsequent year, unless the method adopted by the corporation for computing income from the business and accepted for the purpose of this Part does not require it to include any amount receivable in computing its income for a fiscal year unless it has been received in the year.

s. 16 (1),
amended

(2) Subsection 1 of the said section 16, as amended by the Statutes of Ontario, 1973, chapter 157, section 2, is further amended by striking out "and" at the end of clause *m*, by adding "and" at the end of clause *n* and by adding thereto the following clause:

Royalties,
etc., to be
included in
income

(o) any amount (other than an amount, referred to in clause *n* of subsection 1 of section 22, paid or payable by the corporation) receivable in the year or the fair market value of any property receivable (other than an amount of property receivable by Her Majesty in right of Canada for the use and benefit of a band or bands as defined in the *Indian Act* (Canada)) in the year by,

R.S.C. 1970,
c. I-6

(i) Her Majesty in right of Canada or a province,

(ii) an agent of Her Majesty in right of Canada or a province, or

(iii) a corporation, commission or association that is controlled, directly or indirectly in any manner whatever, by Her Majesty in right of Canada or a province or by an agent of Her Majesty in right of Canada or a province,

as a royalty or an equivalent amount, tax (other than a tax or portion thereof that may reasonably be considered to be a municipal or school tax levied for the purpose of providing services in the immediate area of the property of the corporation), rental, bonus, levy or otherwise or as an amount, however described, that may reasonably be regarded as being in lieu of a royalty or an equivalent amount, tax, rental, bonus, levy or other amount, whether such royalty or equivalent amount, tax, rental,

SECTION 4.—Subsection 1. Amends clause *b* of subsection 1 of section 16 of the Act to make it clear that amounts that become *receivable* in the year are to be included in income even though the payment of such amounts may not be *due* until a subsequent year.

Subsection 2. Clause *o* is added to subsection 1 of section 16 of the Act to require inclusion in income of a corporation of amounts receivable in the year by the Crown from the corporation as a royalty or equivalent amount in respect of an oil, gas or mineral resource.

Subsections 3 and 4. Subsections 3 and 4 are added to section 16 of the Act to require financial institutions to include in income their interest income on the accrual basis; previously these corporations had the option of including interest income when received rather than when accrued—this option is removed and interest income must be included in the year receivable.

SECTION 5. This section adds a new section 16*a* to the Act to allow a corporation to report a cash bonus received on Canada Savings Bonds either as interest income or as a capital gain.

bonus, levy or other amount is receivable pursuant to any other Act or a contract, that may reasonably be regarded as being in relation to,

(iv) the acquisition, development or ownership by a corporation of a Canadian resource property or a property that would have been a Canadian resource property if it had been acquired after 1971, or

(v) the production in Canada of,

(A) petroleum, natural gas or related hydrocarbons, or

(B) metal or industrial minerals to any stage that is not beyond the prime metal stage or its equivalent,

from an oil or gas well or mineral resource situated on property in Canada from which the corporation had, at the time of such production, a right to take or remove petroleum, natural gas or related hydrocarbons or a right to take or remove metal or industrial minerals.

(3) The said section 16 is amended by adding thereto the following subsections: s. 16,
amended

(3) Notwithstanding clause c of subsection 1 where the corporation is a bank, a credit union, a life insurance corporation, a trust company or any other corporation, other than a mutual fund corporation or a mortgage investment corporation, that borrows money from the public in the course of carrying on a business the principal purpose of which is the making of loans or whose principal business is the making of loans, there shall be included in computing its income from the business for a fiscal year interest accrued in respect of the year and interest receivable in the year to the extent that such interest was not included in computing the corporation's income for a previous fiscal year. Accrued
interest of
financial
corporations

(4) For the purposes of subsection 3, "trust company" means a corporation licensed or otherwise authorized under the laws of Canada or a province to carry on in Canada the business of offering to the public its services as trustee. Interpre-
tation

5. The said Act is amended by adding thereto the following section: s. 16a,
enacted

16a. Notwithstanding any other provision of this Act, where in a fiscal year a corporation receives any amount from Cash bonus
on Canada
Savings Bond

the Government of Canada in respect of a Canada Savings Bond as a cash bonus that the Government of Canada has undertaken to pay, other than any amount of interest, bonus or principal agreed at the time of the issue of the bond to be paid under the terms of the bond, the corporation shall, in computing its income for the year, include,

(a) the amount, or such portion thereof, if any, as the corporation may report as interest; and

(b) an amount equal to one-half of the amount, if any, by which,

(i) the amount received as a cash bonus,

exceeds

(ii) the portion of the amount reported as interest under clause a,

as a taxable capital gain for the year from the disposition of a property.

s. 17,
amended

6.—(1) Section 17 of the said Act, as amended by the Statutes of Ontario, 1973, chapter 42, section 3, is further amended by adding thereto the following subsection:

Idem

(1a) Notwithstanding subsection 1, where in a fiscal year a timber resource property of a corporation has been disposed of, there shall be included in computing its income for the year the amount, if any, by which,

(a) the proceeds of disposition thereof,

exceeds

(b) the undepreciated capital cost to it, immediately before the disposition, of depreciable property of a prescribed class in which the timber resource property was included.

s. 17 (2),
amended

(2) Subsection 2 of the said section 17 is amended:

(a) by striking out "subsection 1" in the first, ninth, nineteenth, twenty-seventh and thirty-eighth lines, and inserting in lieu thereof in each instance "subsection 1 or 1a"; and

(b) by striking out "subsection 1" in the sixth line and inserting in lieu thereof "subsections 1 and 1a".

SECTION 6.—Subsection 1. Amends section 17 of the Act by adding thereto a new subsection 1*a* to provide the rules on the disposition of timber resource property—the entire amount by which the proceeds of disposition exceed the undepreciated balance at the time of the disposition is to be included in income.

Subsection 2. Complementary to subsection 1; references to subsection 1*a* are added to subsection 2 of section 17 of the Act.

Subsection 3. Subsection 3 of section 17 of the Act is amended to extend the period during which the capital property of a corporation that has been expropriated, lost or destroyed must be replaced if the corporation is to obtain a deferral of recapture of capital cost allowance.

- (3) Subsection 3 of the said section 17 is repealed and the following substituted therefor: s. 17 (3),
re-enacted

(3) Where an amount that would otherwise be included in computing the income of a corporation for a fiscal year, hereinafter referred to as the "initial year", by virtue of this section is, Insurance
and com-
pensation
proceeds

- (a) an amount receivable, in respect of loss or destruction of property of a prescribed class,
 - (i) under a policy of insurance, or
 - (ii) otherwise as compensation for the property so lost or destroyed; or
- (b) an amount receivable as compensation for property of a prescribed class taken under statutory authority or as the sale price of property sold to a person by whom notice of an intention to take it under statutory authority was given,

the following rule applies,

- (c) the amount shall, to the extent that it has been used by a corporation,
 - (i) before the end of the time certified by the Minister to be a reasonable time following the initial year, if the property so lost, destroyed, taken or sold was a vessel, or
 - (ii) before the end of the second fiscal year following the initial year if the property is not property referred to in subclause i,

to acquire, as a replacement for the property referred to in clause *a* or *b*, a property, in this section referred to as "replacement property", of a prescribed class that has not been disposed of by the corporation before the time the property referred to in clause *a* or *b* was disposed of,

- (iii) subject to subclause iv, not be included in computing the income of the corporation for the initial year, and
- (iv) be deemed to be proceeds of disposition of a depreciable property of the corporation, that had a capital cost equal to the amount of those

proceeds and that was property of the same class as the replacement property, from a disposition made on the later of,

- (A) the time the replacement property was acquired, or
- (B) the time immediately after the time the property referred to in clause *a* or *b* was disposed of.

s. 17 (6), par. 5,
re-enacted

- (4) Paragraph 5 of subsection 6 of the said section 17 is repealed and the following substituted therefor:

5. Where a corporation has received or is entitled to receive a grant, subsidy, forgivable loan, investment allowance or other assistance from a government, municipality or other public authority in respect of or for the acquisition of property, other than an amount,

i. authorized to be paid under an *Appropriation Act* (Canada) and on terms and conditions approved by the Minister in respect of scientific research expenditures incurred for the purpose of advancing and sustaining the technological capability of Canadian manufacturing or other industry, or

R.S.C. 1970,
c. I-10

ii. authorized to be paid under the *Industrial Research and Development Incentives Act* (Canada) or the *Area Development Incentives Act* (Canada) and approved by the Minister,

1965,
c. 12 (Can.)

the capital cost of the property to the corporation shall be deemed to be the amount by which the aggregate of,

iii. the capital cost thereof to the corporation, otherwise determined, and

iv. such part, if any, of the assistance as has been repaid by the corporation pursuant to an obligation to repay all or any part of that assistance,

exceeds

v. the amount of the assistance.

s. 17 (6),
amended

- (5) Subsection 6 of the said section 17 is amended by adding thereto the following paragraph:

Subsection 4. Paragraph 5 of subsection 6 of section 17 is amended to expand the present provisions so that the capital cost of property must be reduced not only by the amount of any grant, subsidy or other governmental assistance, but also by the amount of any forgivable loans or investment allowances received from any government.

Subsection 5. Subsection 6 of section 17 of the Act is amended by adding a new paragraph 6 to provide the rules that will apply in determining the undepreciated capital cost of property purchased to replace depreciable property that has been expropriated, lost or destroyed.

Subsections 6, 7, 8 and 9. Subsections 11, 14, 15 and 16 of section 17 of the Act are amended to extend to July 1st, 1975 the period during which a corporation must use the proceeds of disposition of certain commercial vessels to replace the vessels, if the corporation is to obtain deferral of the recapture of capital cost allowance.

Subsection 10. Subsection 17 of section 17 is amended by adding thereto clause *da* to define "timber resource property", to which, as a result of other amendments in this Bill, special rules apply.

6. Notwithstanding clause *f* of subsection 17,

- i. the undepreciated capital cost referred to in subclause ii of clause *c* of subsection 1 of section 46 shall be determined after giving effect to the disposition of the former property referred to in subsection 1 of section 46, and
- ii. the undepreciated capital cost, immediately before the time determined under sub-subclause B of subclause iv of clause *c* of subsection 3, of the class of property to which the replacement property referred to in clause *c* of subsection 3 belongs shall be determined after giving effect to,

(A) the disposition of the former property referred to in subsection 1 of section 46, and

(B) the reduction, referred to in clause *b* of subsection 1 of section 46, in the capital cost of that replacement property.

- (6) Clause *a* of subsection 11 of the said section 17 is amended <sup>s. 17 (11) (a),
amended</sup> by inserting after "before" in the fifth line "May" and by striking out "1974" in the twenty-eighth line and inserting in lieu thereof "1975".
- (7) Subsection 14 of the said section 17 is amended by <sup>s. 17 (14),
amended</sup> striking out "expended" in the third line and inserting in lieu thereof "used", by striking out "subclause iii of" in the third and fourth lines and by striking out "1974" in the seventh line and inserting in lieu thereof "1975".
- (8) Subsection 15 of the said section 17 is amended by <sup>s. 17 (15),
amended</sup> striking out "1974" in the sixth line and inserting in lieu thereof "1975" and by striking out "1974" in the twenty-seventh line and inserting in lieu thereof "the 1st day of July, 1975".
- (9) Subsection 16 of the said section 17 is amended by <sup>s. 17 (16),
amended</sup> striking out "1974" in the fifth line and in the twenty-fourth line and inserting in lieu thereof in each instance "1975".
- (10) Subsection 17 of the said section 17 is amended by <sup>s. 17 (17),
amended</sup> adding thereto the following clause:

(*da*) "timber resource property" of a corporation means,

- (i) a right or licence to cut or remove timber from a limit or area in Canada, in this clause referred to as an "original right", if,

- (A) that original right was acquired by the corporation, other than in the manner referred to in subclause ii, after May 6, 1974, and

- (B) at the time of the acquisition of the original right,

- 1. the corporation may reasonably be regarded as having acquired, directly or indirectly, the right to extend or renew that original right or to acquire another such right or licence in substitution therefor, or

- 2. in the ordinary course of events, the corporation may reasonably expect to be able to extend or renew that original right or to acquire another such right or licence in substitution therefor, or

- (ii) any right or licence owned by the corporation to cut or remove timber from a limit or area in Canada if that right or licence may reasonably be regarded,

- (A) as an extension or renewal of or as one of a series of extensions or renewals of an original right of the corporation, or

- (B) as having been acquired in substitution for or as one of a series of substitutions for an original right of the corporation or any renewal or extension thereof.

s. 17 (17) (f),
amended

- (11) Clause *f* of subsection 17 of the said section 17 is amended by,

- (a) inserting after "property" in the first and second lines of subclause ii "other than a timber resource property"; and

- (b) adding thereto the following subclause:

Subsection 11. Subclause ii of clause *f* of subsection 17 of section 17 of the Act is amended to make it clear that the provisions of the Act to determine the undepreciated capital cost of property of a prescribed class will not apply in the case of a disposition of a timber resource property; and subclause *ii*a is added to the said clause *f* to provide the rule that will apply where the proceeds of disposition of a timber resource property is less than the undepreciated balance in the class.

SECTION 7.—Subsection 1. Clause *n* of subsection 1 of section 22 of the Act is re-enacted to provide that royalties or equivalent amounts payable by oil, gas and mining corporations to governments or their agencies will not be deductible from the income of such corporations.

(iia) for each disposition before that time of a timber resource property of the corporation of that class, the lesser of,

(A) the proceeds of disposition of the property, and

(B) the undepreciated capital cost to it of property of that class immediately before the disposition.

7.—(1) Clause *n* of subsection 1 of section 22 of the said Act, ^{s. 22 (1) (*n*), re-enacted} as enacted by the Statutes of Ontario, 1974, chapter 75, section 2, is repealed and the following substituted therefor:

(*n*) any amount paid or payable in the year or the fair ^{Royalties} market value of any property paid or payable in the year (other than an amount or property paid or payable to Her Majesty in right of Canada for the use and benefit of a band or bands as defined in the *Indian Act* (Canada)) to, ^{R.S.C. 1970, c. 1-6}

(i) Her Majesty in right of Canada or a province,

(ii) an agent of Her Majesty in right of Canada or a province, or

(iii) a corporation, commission, or association that is controlled, directly or indirectly in any manner whatever, by Her Majesty in right of Canada or a province or by an agent of Her Majesty in right of Canada or a province,

as a royalty or an equivalent amount, tax (other than a tax or portion thereof that may reasonably be considered to be a municipal or school tax levied for the purpose of providing services in the immediate area of the property of the corporation), rental, bonus, levy or otherwise or as an amount, however described, that may reasonably be regarded as being in lieu of a royalty or an equivalent amount, tax, rental, bonus, levy or other amount (whether such royalty or equivalent amount, tax, rental, bonus, levy or other amount is paid or payable pursuant to any other Act or a contract) that may reasonably be regarded as being in relation to,

(iv) the acquisition, development or ownership of a Canadian resource property, or a property

that would have been a Canadian resource property if it had been acquired after 1971, or

(v) the production in Canada of,

(A) petroleum, natural gas or related hydrocarbons, or

(B) metal or industrial minerals, to any stage that is not beyond the prime metal stage or its equivalent,

from an oil or gas well or mineral resource situated on property in Canada from which the corporation had, at the time of such production, a right to take or remove petroleum, natural gas or related hydrocarbons or a right to take or remove metal or industrial minerals.

s. 22 (3),
re-enacted

(2) Subsection 3 of the said section 22 is repealed and the following substituted therefor:

Meaning
of certain
expressions
in sub. 2

(3) In subsection 2,

(a) "interest on borrowed money used to acquire land" includes,

(i) interest paid or payable in a year in respect of borrowed money that cannot be identified with particular land but that may nonetheless reasonably be considered, having regard to all the circumstances, as interest on borrowed money used in respect of or for the acquisition of land, and

(ii) interest paid or payable in the year by a corporation in respect of borrowed money that may reasonably be considered, having regard to all the circumstances, to have been used to assist, directly or indirectly, another person with whom the corporation does not deal at arm's length to acquire land to be used or held by that person, otherwise than as described in clause c or e or subsection 2, except where the assistance is in the form of a loan to that person and a reasonable rate of interest thereon is charged by the corporation; and

Subsection 2. Subsection 3 of section 22 of the Act is re-enacted to amend the definition of "land" in order to make it clear that commercial parking lots will be regarded as land for the purpose of subsection 2 of section 22 of the Act; also there is added a definition of the expression "interest on borrowed money used to acquire land" to make it clear that any interest that may reasonably be considered to be on money borrowed to acquire land will be treated as such, even if it is not possible to directly identify the borrowed money with the land.

Subsection 3. Subsection 5 of section 22 of the Act is re-enacted to provide with respect to a Canadian subsidiary of a non-resident life insurance corporation an exception to the present provisions which require that interest payable by Canadian subsidiaries of certain non-resident parent corporations (in respect of certain obligations and income debts owing to the parent corporation) is not deductible in computing the income of the Canadian subsidiary.

(b) "land" does not, except to the extent that it is used for the provision of parking facilities for a fee or charge, include,

- (i) any property that is a building or other structure affixed to land,
- (ii) the land subjacent to any property described in subclause i, or
- (iii) such land immediately contiguous to the land described in subclause ii that is a parking area, driveway, yard, garden or similar land that is necessary for the use of any property described in subclause i.

(3) Subsection 5 of the said section 22, as amended by the Statutes of Ontario, 1973, chapter 157, section 4, is repealed and the following substituted therefor: s. 22 (5),
re-enacted

(5) In subsection 4, "outstanding debts to specified non-residents" of a corporation at any particular time in a fiscal year means, Meaning
of certain
expressions
in subs. 4

(a) the aggregate of amounts each of which is an amount outstanding at that time as or on account of a debt or other obligation to pay an amount,

(i) that was payable by the corporation to a person who was, at any time in the year,

(A) a shareholder of the corporation, who, either alone or together with persons with whom the shareholder was not dealing at arm's length, owned 25 per cent or more of the issued shares of any class of the corporation and who was,

1. a person not resident in Canada,
or

2. a non-resident-owned investment corporation, or

(B) a person described in paragraph 1 or 2 of sub-subclause A who was not dealing at arm's length, with a shareholder of the corporation, if the shareholder, either alone or together with persons with whom he was not dealing

at arm's length, owned 25 per cent or more of the issued shares of any class of the corporation, and

- (ii) on which any amount in respect of interest paid or payable by the corporation is or would be, but for subsection 4, deductible in computing the corporation's income for the year,

but does not include,

- (b) where the corporation is a subsidiary of a non-resident life insurance corporation, the aggregate of amounts each of which is an amount outstanding at that time as or on account of a debt or other obligation to pay an amount to the life insurance corporation and such debt or other obligation has, by virtue of an election made under subsection 9 of section 138 of the *Income Tax Act* (Canada), been included by the life insurance corporation in its fiscal year that included the particular time as property held by it in the year in the course of carrying on an insurance business in Canada and the life insurance corporation has included the revenue therefrom in computing its income for the year from carrying on an insurance business in Canada.

1970-71,
c. 63 (Can.)

s. 24 (1) (p),
amended

- 8.—(1) Clause *p* of subsection 1 of section 24 of the said Act is amended by striking out "receivable" in the fifth line and inserting in lieu thereof "due".

s. 24 (1) (dd),
re-enacted

- (2) Clause *dd* of subsection 1 of the said section 24 is repealed and the following substituted therefor:

Fees paid
to investment
counsel

- (*dd*) an amount other than a commission paid by the corporation in the fiscal year to a person,

- (i) for advice as to the advisability of purchasing or selling a specific share or security of the corporation, or

- (ii) for services in respect of the administration or management of shares or securities of the corporation,

if that person's principal business,

- (iii) is advising others as to the advisability of purchasing or selling specific shares or securities, or

SECTION 8.—Subsection 1. Clause *p* of subsection 1 of section 24 of the Act is amended by changing the word "receivable" to "due" to make it clear that the reserve permitted under clause *p* may be claimed only where payment of this amount is not yet due.

Subsection 2. Clause *dd* of subsection 1 of section 24 of the Act is re-enacted to allow the deduction of the full amount of investment counsel fees (the deduction previously was for 50% of such fees).

Subsection 3. Subsection 5 of section 24 of the Act is amended to exclude bad debts arising on the sale of timber resource property from the reduction of the deduction for bad debts.

Subsection 4. Subsection 5a is added to section 24 of the Act to permit deduction from income where any part of the proceeds of disposition of a timber resource property is established by the corporation to have become a bad debt.

Subsection 5. Subsection 6 of section 24 is amended to make it clear that the provisions of that subsection do not apply in the case of a disposition of a timber resource property.

Subsection 6. Subsection 6a is added to section 24 of the Act to provide that where the proceeds of disposition of a timber resource property includes a mortgage or similar instrument that is subsequently sold for an amount less than the principal amount, the difference may be deducted from income.

Subsection 7. Subsection 9 of section 24 of the Act is re-enacted to make it clear that the reserve for amounts not yet due will not be allowed for a fiscal year if at the end of that year or in the immediately following fiscal year the corporation ceased to have a permanent establishment in Canada.

- (iv) includes the provision of services in respect of the administration or management of shares or securities.

(3) Subsection 5 of the said section 24 is amended by inserting after "property" in the second line "other than a timber resource property". s. 24 (5),
amended

(4) The said section 24, as amended by the Statutes of Ontario, 1973, chapter 42, section 5, 1973, chapter 157, section 5 and 1974, chapter 75, section 3, is further amended by adding thereto the following subsection: s. 24,
amended

(5a) Where an amount that is owing to a corporation as or on account of the proceeds of disposition of a timber resource property of the corporation is established by it to have become a bad debt in a fiscal year, the amount so owing to the corporation may be deducted in computing its income for the fiscal year. Idem

(5) Subsection 6 of the said section 24 is amended by inserting after "property" in the first line "other than a timber resource property". s. 24 (6),
amended

(6) The said section 24 is further amended by adding thereto the following subsection: s. 24,
amended

(6a) Where a timber resource property of a corporation has, in a fiscal year, been disposed of to a person with whom the corporation was dealing at arm's length, and the proceeds of disposition include an agreement for sale of or mortgage or hypothec on land that the corporation has, in a subsequent fiscal year, sold to a person with whom it was dealing at arm's length, there may be deducted in computing the income of the corporation for the subsequent fiscal year the amount, if any, by which the principal amount of the agreement for sale, mortgage or hypothec outstanding at the time of the sale exceeds the consideration paid by the purchaser to the corporation for the agreement for sale, mortgage or hypothec. Idem

(7) Subsection 9 of the said section 24 is repealed and the following substituted therefor: s. 24 (9),
re-enacted

(9) Clause *p* of subsection 1 does not apply to allow a deduction in computing the income of a corporation for a fiscal year from a business in respect of a property sold in the course of the business if the corporation, at the end of the fiscal year or at any time in the immediately following fiscal year, No
deduction in
respect of
property in
certain cir-
cumstances

(a) was exempt from tax under any provision of this Part; or

(b) ceased to have a permanent establishment in Canada.

s. 24 (10),
amended

(8) Subsection 10 of the said section 24 is amended by inserting after "the" in the sixth line "nine".

s. 24,
amended

(9) The said section 24 is further amended by adding thereto the following subsection:

Convention
expenses

(10a) Notwithstanding clause *b* of subsection 1 of section 22, there may be deducted in computing the income of a corporation for a fiscal year from a business an amount paid by the corporation in the fiscal year as or on account of expenses incurred by an employee or officer of the corporation in attending, in connection with the business, not more than two conventions held during the year by a business or professional organization at a location that may reasonably be regarded as consistent with the territorial scope of that organization.

s. 25 (2),
amended

9.—(1) Subsection 2 of section 25 of the said Act is amended by inserting after "development" in the second and third lines and in the fourth line "or the acquisition of property" and by striking out "and" in the fourth line and inserting in lieu thereof "or".

s. 25 (2) (a),
amended

(2) Clause *a* of subsection 2 of the said section 25 is amended by striking out "and" in the twelfth line and inserting in lieu thereof "or".

s. 25 (2) (b),
amended

(3) Clause *b* of subsection 2 of the said section 25 is amended by striking out "exploration, prospecting and development expenses" in the third line and inserting in lieu thereof "Canadian exploration and development expenses as defined in section 63".

s. 26 (2),
amended

10. Subsection 2 of section 26 of the said Act is amended by inserting after "shall", in the fourth line "subject to subsection 1 of section 66".

s. 27 (2),
repealed

11. Subsection 2 of section 27 of the said Act is repealed.

s. 35 (1) (a),
re-enacted

12.—(1) Clause *a* of subsection 1 of section 35 of the said Act is repealed and the following substituted therefor:

(a) the aggregate of,

(i) $1\frac{1}{2}$ per cent of the lesser of,

Subsection 8. Subsection 10 of section 24 of the Act is amended for the purpose of clarification.

Subsection 9. Subsection 10a is added to section 24 of the Act to allow a corporation to deduct certain convention expenses of its employees and officers, for not more than two conventions in each year.

SECTION 9. Subsection 2 of section 25 is amended to provide that the election that corporations have to deduct in the year incurred or carry forward to subsequent fiscal years the interest cost of money borrowed for the purpose of exploration, prospecting or development, will also apply to the interest cost of money borrowed to purchase certain resource properties.

SECTION 10. Subsection 2 of section 26 of the Act is amended by making the said subsection 2 subject to subsection 1 of section 66 of the Act in order to make it clear that the provisions of subsection 1 of section 66 apply where the parties to a sale of accounts receivable are not dealing with each other at arm's length.

SECTION 11. Subsection 2 of section 27 of the Act is repealed, with the result that in the case of a non-arm's length sale of inventory for inadequate consideration the fair market value of the inventory must be used (since section 66 of the Act will be applicable).

SECTION 12.—Subsection 1. Clause a of subsection 1 of section 35 of the Act is re-enacted to reduce the investment reserve on outstanding loans in excess of \$2,000,000,000 allowed to corporations lending on the security of mortgages; the rate on the amount in excess of \$2,000,000,000 will be 1 per cent instead of the former 1½ per cent.

(A) the aggregate of,

1. each amount outstanding at the end of the fiscal year as or on account of the amortized cost of loans made by the corporation on the security of a mortgage, hypothec or agreement for sale of real property, or as or on account of the amortized cost of any such mortgage, hypothec or agreement for sale purchased by the corporation,
2. each amount due and unpaid at the end of the fiscal year as or on account of interest payable to the corporation under a mortgage, hypothec or agreement for sale of real property,
3. each amount that has been taken into account in computing the income of the corporation for the fiscal year as or on account of the value of real property of the corporation that was included in the inventory of the corporation at the end of the year and that was acquired, by foreclosure or otherwise, after default made under a mortgage, hypothec or agreement for sale of real property, otherwise than as or on account of the value of real property in respect of which any amount for the year has been included under paragraph 1 or 2, and
4. where the corporation is licensed or otherwise authorized under the laws of Canada or a province to carry on in Canada the business of offering to the public its services as trustee, each amount outstanding at the end of the fiscal year as or on ac-

count of the amortized cost of a bond or debenture (other than a bond or debenture that matures within one year after that time) owned by the corporation at that time and held by it in respect of money received by it in trust for investment subject to a guarantee by it in respect of the repayment of the principal or the payment of interest, or both, and each amount due and unpaid as or on account of interest payable in respect of such bond or debenture to the corporation, and

(B) \$2,000,000,000, and

- (ii) 1 per cent of the amount, if any, by which the aggregate referred to in sub-subclause A of subclause i exceeds the amount referred to in sub-subclause B of subclause i; and

s. 35,
amended

- (2) The said section 35 is amended by adding thereto the following subsection:

Interpre-
tation

- (3) In this section, "amortized cost" of a bond, debenture, mortgage, hypothec or agreement for sale at any time means the amount, if any, by which the aggregate of,

- (a) the cost to the corporation of acquiring the bond, debenture, mortgage, hypothec or agreement for sale; and

- (b) the portion of the amount, if any, by which,

- (i) the principal amount of the bond, debenture, mortgage, hypothec or agreement for sale at the time it was acquired by the corporation,

exceeds

- (ii) the cost thereof to the corporation of acquiring it,

Subsection 2. Subsection 3 of section 35 is enacted to define the expression "amortized cost" as used in the above amendment to clause *a* of subsection 1 of section 35.

SECTION 13. Subsections 1 and 2 amend subsection 1 of section 39 to allow a corporation to deduct such part of its scientific expenditures as it may claim and to allow it to carry forward the unclaimed balance for deduction in subsequent fiscal years.

that was included in computing the income of the corporation for any fiscal year ending at or before that time,

exceeds the aggregate of,

(c) the portion of the amount, if any, by which,

(i) the cost to the corporation of acquiring the bond, debenture, mortgage, hypothec or agreement for sale,

exceeds

(ii) the principal amount thereof at the time it was acquired by the corporation,

that was deducted in computing the income of the corporation for any fiscal year ending at or before that time; and

(d) the aggregate of all amounts that, before that time, the corporation became entitled to receive as or on account or in lieu of payment of or in satisfaction of the principal amount of the bond, debenture, mortgage, hypothec or agreement for sale.

13.—(1) Clause *a* of subsection 1 of section 39 of the said Act is amended by striking out “all expenditures of a current nature made in Canada in the fiscal year” in the first and second lines and inserting in lieu thereof “such amounts as may be claimed by the corporation not exceeding all expenditures of a current nature made in Canada by the corporation in the fiscal year or in any previous fiscal year ending after 1973”. s. 39 (1) (a),
amended

(2) Subsection 1 of section 39 is amended by striking out all that portion thereof following subclause ii of clause *b* and inserting in lieu thereof the following: s. 39 (1),
amended

(c) such amounts as may be claimed by the corporation not exceeding all expenditures in the fiscal year or in any previous fiscal year ending after 1973 by way of repayment of amounts paid to the corporation under an *Appropriation Act* (Canada) and on terms and conditions approved by the Minister in respect of scientific research expenditures incurred for the purpose of advancing or sustaining the technological capability of Canadian manufacturing or other industry,

exceeds

- (d) the aggregate of all amounts paid to the corporation in the fiscal year or in any previous fiscal year ending after 1973 under an *Appropriation Act* (Canada) and on terms and conditions described in clause c,

to the extent that such expenditures were not deducted in computing the income of the corporation for any previous fiscal year.

s. 41 (1) (a),
amended

- 14.** Clause *a* of subsection 1 of section 41 of the said Act is amended by striking out “or” at the end of subclause ii, by striking out “and” at the end of subclause iii and inserting in lieu thereof “or” and by adding thereto the following subclause:

(iv) a timber resource property; and

s. 42 (2) (a),
re-enacted

- 15.—(1)** Clause *a* of subsection 2 of section 42 of the said Act is repealed and the following substituted therefor:

- (a) subclause iii of clause *a* of subsection 1 does not apply to permit a corporation to claim any amount thereunder in computing a gain for a fiscal year if,

(i) the corporation, at the end of the fiscal year or at any time in the immediately following fiscal year, ceased to have a permanent establishment in Canada or was exempt from tax under any provision of this Part, or

(ii) the purchaser of the property sold is a corporation that, immediately after the sale,

(A) was controlled directly or indirectly by the corporation,

(B) was controlled directly or indirectly by a person or group of persons by whom the corporation was controlled directly or indirectly, or

(C) controlled the corporation directly or indirectly.

s. 42 (3) (b),
re-enacted

- (2) Clause *b* of subsection 3 of the said section 42 is repealed and the following substituted therefor:

(b) the aggregate of,

SECTION 14. Clause *a* of subsection 1 of section 41 of the Act is amended to make it clear that the profit from the sale of a timber resource property will not be treated as a capital gain.

SECTION 15.—Subsection 1. Clause *a* of section 42 of the Act is amended to provide that the reserve, allowed where proceeds from the sale of capital assets is not receivable in the year, will not be allowed where at the end of the year or in the following year the corporation becomes exempt from tax, or where the sale was not at arm's length.

Subsection 2. Clause *b* of subsection 3 of section 42 of the Act is amended for the purpose of clarification as to the "cost" to be used in determining under the said subsection 3 whether there is a capital gain.

SECTION 16. This section amends section 45 of the Act to make it clear that the provisions for determining the gain from the sale of part of a property also apply in determining losses from such dispositions.

SECTION 17. This section re-enacts section 46 of the Act to extend by one year the period during which property that has been expropriated, lost or destroyed must be replaced in order to obtain a deferral of the realization of a capital gain.

- (i) the cost to the corporation of the property determined for the purpose of computing the adjusted cost base to it of that property at that time, and
- (ii) all amounts required by subsection 1 of section 55 to be added to the cost to the corporation of the property in computing the adjusted cost base to it of that property at that time,

16. Section 45 of the said Act is amended by inserting after ^{s. 45,} "gain" in the first line "or loss", ^{amended}

17. Section 46 of the said Act is repealed and the following ^{s. 46,} substituted therefor: ^{re-enacted}

46.—(1) Where in a fiscal year an amount has become receivable, as described in subsection 2, by a corporation as ^{Deferral of gain on involuntary disposition} proceeds of disposition described in subclause iii or iv of clause *d* of subsection 17 of section 17 or subclause iii or iv of clause *i* of section 56 of any capital property, in this section referred to as its "former property", and, before the end of the second fiscal year following the fiscal year in which such amount became receivable, the corporation has acquired a capital property, in this section referred to as its "replacement property", as a replacement for the former property and the replacement property has not been disposed of by the corporation prior to the time it disposed of the former property, notwithstanding subsection 1 of section 42,

(a) the gain, if any, from the disposition of the former property is the lesser of,

(i) the gain therefrom otherwise determined, and

(ii) the amount, if any, by which the proceeds of disposition of the former property exceed the cost, or in the case of depreciable property the capital cost, to the corporation, determined without reference to clause *b*, of the replacement property;

(b) the cost, or in the case of depreciable property the capital cost, to the corporation of the replacement property, at any time after the time it disposed of the former property, shall be deemed to be the cost, or in the case of depreciable property the

capital cost, to the corporation of the replacement property otherwise determined, minus the amount, if any, by which the gain described in subclause i of clause *a* exceeds the amount, if any, determined under subclause ii of clause *a*; and

(c) where the replacement property was depreciable property of a prescribed class and that property was acquired by the corporation prior to the time it disposed of the former property, the amount, if any, by which,

(i) the reduction in the capital cost to it of the replacement property by virtue of clause *b*,

exceeds

(ii) the undepreciated capital cost to the corporation of depreciable property of the class to which the replacement property belongs, immediately before the reduction in the capital cost referred to in subclause i,

shall be included in computing the income of the corporation for the fiscal year in which the former property was disposed of and shall, for the purposes of subsection 2 of section 17 be deemed to have been so included by virtue of subsection 1 of section 17 in respect of a disposition of depreciable property of the class to which the replacement property belongs.

Idem

(2) For the purposes of this Act, the day on which a corporation has disposed of a property, the proceeds of disposition from which are described in subclause iii or iv of clause *d* of subsection 17 of section 17 or subclause iii or iv of clause *i* of section 56, and the day on which an amount has become receivable by that corporation as proceeds of disposition of such a property shall be deemed to be the earliest of,

(a) the day the corporation has agreed to an amount as full compensation to it for the property lost, destroyed, taken or sold;

(b) where a claim, suit, appeal or other proceeding has been taken before one or more tribunals or courts of competent jurisdiction, the day on which the corporation's compensation for the property is finally determined by such tribunals or courts;

SECTION 18. This section amends subsection 2 of section 47 of the Act to clarify an incorrect reference.

SECTION 19. Section 51 of the Act is amended by adding subsection 5 thereto to provide that the provisions relating to the granting of options shall apply to renewals or extensions thereof; a renewal or extension of an option is treated as if a new option was granted at the time of the renewal or extension.

SECTION 20. Section 53 of the Act is re-enacted to make it clear that the permitted deferral of the realization of capital gains or losses on exchanges of shares is limited to those exchanges where no consideration is received by the corporation on the exercise of its conversion right other than shares of one class of the capital stock of the other corporation.

- (c) where a claim, suit, appeal or other proceeding, referred to in clause *b* has not been taken before a tribunal or court of competent jurisdiction within two years of the loss, destruction or taking of the property, the day that is two years following the day of the loss, destruction or taking;
- (d) the day on which the corporation is deemed by section 50 to have disposed of the property; and
- (e) where the corporation is not a subsidiary corporation referred to in subsection 1 of section 82, the day immediately before the winding up of the corporation,

and the corporation shall be deemed to have owned the property continuously until the day so determined.

18. Subsection 2 of section 47 of the said Act is amended by ^{s. 47 (2),} ^{amended} inserting after "where" in the first line "subclause i of".

19. Section 51 of the said Act, as amended by the Statutes of ^{s. 51,} ^{amended} Ontario, 1973, chapter 157, section 11, is further amended by adding thereto the following subsection:

(5) Where a corporation has granted an option, in this ^{Idem} subsection referred to as the "original option", to which subsection 1 or 2 applies, and has granted one or more extensions or renewals of that original option,

- (a) for the purposes of subsections 1 and 2, the granting of each extension or renewal shall be deemed to be the granting of an option at the time the extension or renewal is granted;
- (b) for the purposes of subsections 2, 3 and 4 and sub-subclause D of subclause ii of clause *c* of section 56, the original option and each extension or renewal thereof shall be deemed to be the same option; and
- (c) subsection 4 shall be read as if the fiscal year in which the original option was granted and each fiscal year in which any extension or renewal thereof was granted were all initial fiscal years.

20. Section 53 of the said Act, as amended by the Statutes of ^{s. 53,} ^{re-enacted} Ontario, 1973, chapter 157, section 12, is repealed and the following substituted therefor:

Convertible
properties

53. Where shares of one class of the capital stock of a corporation have, after the 6th day of May, 1974, been acquired by a person in exchange for a capital property of the person that was a share, bond, debenture or note of the corporation, in this section referred to as a "convertible property", the terms of which conferred upon the holder the right to make the exchange and no consideration was received by the person for the convertible property other than shares of that class,

(a) the exchange shall be deemed not to have been a disposition of property; and

(b) the cost to the person of the shares shall be deemed to be the adjusted cost base to him of the convertible property immediately before the exchange.

s. 54 (1),
amended

21.—(1) Subsection 1 of section 54 of the said Act is amended by inserting after "1971" in the second line "(other than property acquired as described in subsection 2, 3 or 6)".

s. 54 (1a),
amended

(2) Subsection 1a of the said section 54, as enacted by the Statutes of Ontario, 1973, chapter 157, section 13, is amended by inserting after "1971" in the third line "(other than property acquired as described in subsection 2, 3 or 6)".

s. 55 (1) (c),
amended

22.—(1) Clause c of subsection 1 of section 55 of the said Act is amended by striking out "loan" in the fifth line and inserting in lieu thereof "a loan or, subject to subsection 1a, a disposition of property in respect of which the corporation and that other corporation have made an election under section 79".

s. 55 (1),
amended

(2) Subsection 1 of the said section 55, as amended by the Statutes of Ontario, 1973, chapter 157, section 14, is further amended by adding thereto the following clauses:

(ca) where the property is a share of the capital stock of a foreign affiliate of the corporation, any amount required by paragraph a of subsection 1 of section 92 of the *Income Tax Act* (Canada) to be added in computing the adjusted cost base to it of the share;

(cb) where the property is a capital interest of the corporation in a trust to which paragraph d of subsection 1 of section 94 of the *Income Tax Act* (Canada) applies, any amount required by paragraph a of subsection 5 of section 94 of that Act

1970-71, c. 63
(Can.)

SECTION 21. Subsections 1 and 1e of section 54 are amended to make it clear that the rules in those subsections as to the cost of certain property do not apply to the acquisitions of property referred to in subsections 2, 3 and 6 of section 54. This amendment eliminates from the section the ambiguity in that regard.

SECTION 22.—Subsection 1. This amendment to clause *c* of subsection 1 of section 55 is complementary to the enactment of subsection 1a of section 55 of the Act and the amendments to section 79 of the Act.

Subsection 2. Subsection 1 of section 55 of the Act is amended by adding thereto clause *ca* to require that there be added to the cost of shares of a foreign affiliate the amount of foreign accrued property income that has been included in income; and clause *cb* to require to be added to the cost of a capital interest in a trust the amount of foreign accrual property income that has been included in income.

Subsections 3, 4 and 5. Amendments are made to clause *d* of subsection 1 of section 55 of the Act to clarify the provisions with regard to additions to the adjusted cost base of partnership interests.

Subsection 6. Subsection 1*a* is added to section 55 of the Act to provide a rule for determining the amount to be added to the adjusted cost base of property where a corporation that has made capital contributions to another corporation of which it is a shareholder sells those shares before May 7, 1974.

to be added in computing the adjusted cost base to it of the interest.

- (3) Subclause *i* of clause *d* of subsection 1 of the said section 55 is amended by inserting after "share" in the fourth line, "other than a share under an agreement referred to in subsection 1*a* of section 85,". <sup>s. 55 (1) (d) (i),
amended</sup>

- (4) Sub-subclause B of subclause *i* of clause *d* of subsection 1 of the said section 55 is repealed and the following substituted therefor: <sup>s. 55 (1)
(d) (i) (B),
re-enacted</sup>

(B) clause *b* of subsection 1 of section 31*a*,
clause *b* of subsection 2 of section 31*a*,
clause *h* of this subsection, section 57
and subsection 2 of section 75.

- (5) Clause *d* of subsection 1 of the said section 55 is amended by striking out "and" at the end of subclause iii, by adding "and" at the end of subclause iv and by adding thereto the following subclauses: <sup>s. 55 (1) (d),
amended</sup>

(v) the corporation's share, other than a share under an agreement referred to in subsection 1*a* of section 85, of the amount, if any, by which,

(A) any proceeds of disposition that become receivable by the partnership in respect of the disposition after 1971 of a property owned by the partnership on the 31st day of December, 1971 that is a property referred to in subsection 3 of section 59,

exceeds

(B) the relevant percentage as defined in subsection 4 of section 59 of the proceeds of disposition described in sub-subclause A, and

(vi) any amount deemed by clause *c* of subsection 1 of section 87*a* to be a gain of the corporation for a fiscal year from a disposition before that time of the property.

- (6) Section 55 of the said Act, as amended by the Statutes of Ontario 1973, chapter 157, section 14, is further amended by adding thereto the following subsection: <sup>s. 55,
amended</sup>

Deemed
contribution
of capital

(1a) For the purposes of clause *c* of subsection 1, where there has been a disposition of property before the 7th day of May, 1974, and,

- (a) the corporation and the other corporation referred to in that clause have made an election under section 79 in respect of that property; and
- (b) the consideration received by the corporation for the property did not include shares of the capital stock of the other corporation,

the disposition of property shall be deemed to be a contribution of capital equal to the amount, if any, by which,

- (c) the amount that the corporation and the other corporation have agreed upon in the election,

exceeds

- (d) the fair market value at the time of the disposition of any consideration received by the corporation for the property so disposed of.

s. 55 (2),
amended

- (7) Subsection 2 of the said section 55, as amended by the Statutes of Ontario, 1973, chapter 157, section 14, is further amended by adding thereto the following clauses:

- (aa) where the property is a share of the capital stock of another corporation not resident in Canada, any amount required by paragraph *d* of subsection 4 of section 80.1 of the *Income Tax Act* (Canada) or section 92 of that Act to be deducted in computing the adjusted cost base to the corporation of the share;

1970-71,
c. 63 (Can.)

- (ab) where the property is a capital interest of the corporation in a trust to which paragraph *d* of subsection 1 of section 94 of the *Income Tax Act* (Canada) applies, any amount required by paragraph *b* of subsection 5 of section 94 of that Act to be deducted in computing the adjusted cost base to it of the interest.

s. 55 (2) (b) (i),
amended

- (8) Subclause i of clause *b* of subsection 2 of the said section 55 is amended by inserting after "share" in the fourth line "(other than a share under an agreement referred to in subsection 1a of section 85)".

s. 55 (2) (b) (ii),
amended

- (9) Subclause ii of clause *b* of subsection 2 of the said section 55 is amended by striking out all that portion

Subsection 7. Subsection 2 of section 55 of the Act is amended by adding thereto clause *aa* providing a deduction from the adjusted cost base of shares of a non-resident corporation. This deduction, in respect of certain dividends received which represent a return of capital or a return of previously taxed foreign accrual property income, will result in a larger taxable capital gain when the shares are sold. In addition clause *ab* is added to subsection 2 of section 55 of the Act providing a reduction of the adjusted cost base of a capital interest in a trust by the amount of the gross-up of foreign taxes resulting in foreign accrual property income. This gross-up is allowed as a deduction from income. As a result of this reduction in cost, when the interest in the trust is disposed of, the taxable capital gain will be increased.

Subsections 8, 9 and 10. Amendments are made to clause *b* of subsection 2 of section 55 of the Act to clarify the provisions with respect to deductions from the adjusted cost base of an interest in a partnership.

Subsection 11. This amendment requires to be deducted from the adjusted cost base of property that is a share of a joint exploration corporation such portion of a contribution of capital to the joint exploration corporation as represents its Canadian exploration and development expenses.

Subsection 12. The existing provisions requiring deductions from the adjusted cost base of property that is a capital interest in a non-resident trust or a unit in a non-resident unit trust where more than 50 per cent of the property of such trust is taxable Canadian property, are expanded to make the provisions applicable to other types of property owned by the trust, including Canadian resource property and timber resource property.

immediately preceding sub-subclause B and inserting in lieu thereof the following:

- (ii) an amount in respect of each fiscal year of the partnership ending after 1971 and before that time, other than a fiscal year after the fiscal year in which the corporation ceased to be a member of the partnership, equal to the corporation's share of the aggregate of,

(A) amounts that, but for clause *d* of subsection 1 of section 85, would be deductible in computing the income of the partnership for the fiscal year by virtue of the provisions of *The Corporations Tax Application Rules, 1972* relating to Canadian exploration and development expenses, and

- (10) Subclause iv of clause *b* of subsection 2 of the said section 55 is amended by inserting after "share" in the fourth line "(other than a share under an agreement referred to in subsection 1*a* of section 85)". s. 55 (2) (b) (iv),
amended

- (11) Subsection 2 of the said section 55 is further amended by adding thereto the following clause: s. 55 (2),
amended

(*ea*) where the property is a share of the capital stock of a joint exploration corporation (hereafter in this clause referred to as the "company") resident in Canada and the corporation has, after 1971, made a contribution of capital to the company otherwise than by way of a loan, which contribution was included in computing the adjusted cost base of the property by virtue of clause *c* of subsection 1, such portion of the contribution as may reasonably be considered to be part of an agreed portion, within the meaning given to that expression by clause *a* of subsection 12 of section 63, of the company's Canadian exploration and development expenses.

- (12) Clauses *h* and *i* of subsection 2 of the said section 55 are repealed and the following substituted therefor: s. 55 (2) (*h*, *i*),
re-enacted

(*h*) where the property is a capital interest in a trust, other than a unit trust, not resident in Canada

that was purchased after 1971 by the corporation from a non-resident person at a time when the fair market value of such of the trust property as was,

- (i) a Canadian resource property,
- (ii) property that would have been a Canadian resource property if it had been acquired after 1971,
- (iii) an income interest in a trust resident in Canada,
- (iv) taxable Canadian property, or
- (v) a timber resource property,

was not less than 50 per cent of the aggregate of,

- (vi) the fair market value of all the trust property, and
- (vii) the amount of any money of the trust on hand,

that proportion of the amount, if any, by which,

- (viii) the fair market value at that time of such of the trust property as was property described in subclauses i to v,

exceeds

- (ix) the aggregate of the adjusted cost bases to the trust at that time of such of the trust properties as were properties described in subclauses i to v,

that the fair market value at that time of the interest is of the fair market value at that time of all capital interests in the trust;

- (i) where the property is a unit of a unit trust not resident in Canada that was purchased after 1971 by the corporation from a non-resident person at a time when the fair market value of such of the trust property as was,

- (i) a Canadian resource property,

Subsection 13. This amendment expands the existing provisions requiring deductions from the adjusted cost base of property in respect of a grant, subsidy or other governmental assistance, to require such deduction in respect of forgivable loans and investment allowances.

(ii) property that would have been a Canadian resource property if it had been acquired after 1971,

(iii) an income interest in a trust resident in Canada,

(iv) taxable Canadian property, or

(v) a timber resource property,

was not less than 50 per cent of the aggregate of,

(vi) the fair market value of all the trust property, and

(vii) the amount of any money of the trust on hand,

that proportion of the amount, if any, by which,

(viii) the fair market value at that time of such of the trust property as was property described in subclauses i to v,

exceeds

(ix) the aggregate of the adjusted cost bases to the trust at that time of such of the trust properties as were properties described in subclauses i to v,

that the fair market value at that time of the unit is of the fair market value at that time of all of the issued units of the trust.

(13) Clause *j* of subsection 2 of the said section 55 is repealed ^{s. 55 (2) (*j*), re-enacted} and the following substituted therefor:

(*j*) where the property was acquired by the corporation after 1971, the amount, if any, by which,

(i) the amount of any assistance which it has received or is entitled to receive before that time from a government, municipality or other public authority, in respect of, or for the acquisition of, the property, whether as a grant, subsidy, forgivable loan, investment allowance or as any other form of assistance other than,

(A) an amount authorized to be paid under an *Appropriation Act* (Canada) and on terms and conditions approved by the Minister in respect of scientific research expenditures incurred for the purpose of advancing and sustaining the technological capability of Canadian manufacturing or other industry, or

(B) an amount deducted as an allowance under section 62,

exceeds

(ii) such part, if any, of the assistance referred to in subclause i as has been repaid before that time by the corporation pursuant to an obligation to repay all or any part of that assistance.

s. 55 (2),
amended

(14) Subsection 2 of the said section 55 is further amended by striking out "and" at the end of clause *l*, by adding "and" at the end of clause *m* and by adding thereto the following clause:

(*n*) where the property is a foreign resource property, any amount that has become receivable by the corporation at a particular time in a fiscal year as the result of a transaction that occurred after the 6th day of May, 1974, in which the consideration given by the corporation for the amount was property or services, the original cost of which may reasonably be regarded as having been foreign exploration and development expenses of the corporation, or would have been so regarded if they had been incurred by it after 1971.

s. 56 (c) (iii),
amended

23.—(1) Subclause iii of clause *c* of section 56 of the said Act is amended by striking out "clause *v*" in the fourth line and inserting in lieu thereof "subclause *v*".

s. 56 (e),
amended

(2) Clause *e* of the said section 56 is amended by adding "and" at the end of subclause iii and by adding thereto the following subclause:

(iv) any annual payment made by the corporation for the preservation of a foreign resource property or property that would have been a foreign resource property if it had been acquired by the corporation after 1971.

Subsection 14. This amendment requires a deduction from the adjusted cost base of foreign resource property where there has been a recovery of part of the cost of such property.

SECTION 23.—Subsection 1. This amendment corrects a typographical error.

Subsection 2. The definition of "foreign exploration and development expenses" is expanded to include an annual payment made to preserve a foreign resource property.

Subsection 3. The definition of "proceeds of disposition" of property is amended to exclude therefrom any amount that is deemed by section 78a to be a dividend.

Subsection 4. The definition of "superficial loss" of a person is amended for the purpose of clarification.

Subsection 5. This amendment expands the exceptions contained in the definition of "superficial loss" so that certain types of capital losses will not be treated as superficial losses.

SECTION 24. Clause f of subsection 1 of section 58 of the Act, which requires a corporation to include in income amounts received as legal costs awarded by a court on an appeal, is amended to include legal costs awarded on an appeal in relation to a decision of the Unemployment Insurance Commission, a board of referees, or an umpire under the *Unemployment Insurance Act, 1971* (Canada).

- (3) Clause *i* of the said section 56 is amended by striking out all that portion following subclause viii and inserting in lieu thereof the following: ^{s. 56 (i), amended}

but notwithstanding any other provision of this Part, does not include,

- (ix) any amount that would otherwise be proceeds of disposition of a share to the extent that such amount is deemed by subsection 2 or 3 of section 78 to be a dividend, or
- (x) any amount that would otherwise be proceeds of disposition of a debt owing to a corporation to the extent that such amount,
 - (A) is deemed by subsection 1 of section 78*a* to be a dividend received by the corporation, and
 - (B) is a taxable dividend; and

- (4) Subclause ii of clause *j* of the said section 56 is repealed ^{s. 56 (j) (ii), re-enacted} and the following substituted therefor:

- (ii) at the end of the period referred to in subclause i, the person or the corporation controlled by him, as the case may be, owned in any manner whatever the substituted property,

- (5) Subclause iii of clause *j* of the said section 56 is amended ^{s. 56 (j) (iii), amended} by inserting after "section 50" in the first line "section 52 or subsection 1 of section 47".

24. Clause *f* of subsection 1 of section 58 of the said Act is ^{s. 58 (1) (f), re-enacted} repealed and the following substituted therefor:

- (*f*) amounts received by the corporation in the fiscal year as legal costs awarded to it by a court on an appeal in relation to, ^{Legal costs}

- (i) an assessment of tax, interest or penalties under this Act or the *Income Tax Act* ^{1970-71, c. 63 (Can.)} (Canada), or

1970-71-72,
c. 48 (Can.)

- (ii) a decision of the Unemployment Insurance Commission, a board of referees or an umpire under the *Unemployment Insurance Act, 1971* (Canada),

if with respect to that assessment or decision, as the case may be, an amount has been deducted or may be deductible under clause *b* of subsection 1 of section 60 in computing its income.

s. 59 (1),
amended

- 25.—**(1) Subsection 1 of section 59 of the said Act is amended by striking out "in a fiscal year" in the first line and by striking out the five lines immediately preceding subsection 2 and inserting in lieu thereof "the corporation's proceeds of disposition therefrom shall be included in computing the corporation's income for the fiscal year, to the extent that the proceeds become receivable in that year".

s. 59 (3),
re-enacted

- (2) Subsection 3 of the said section 59 is repealed and the following substituted therefor:

Disposition
of resource
property
acquired
before 1972

- (3) Where a corporation has made a disposition of property owned, or deemed to have been owned, by it on the 31st day of December, 1971 and thereafter without interruption until the date of disposition that is property described in any of subclauses i to vi of clause *c* of subsection 12 of section 63 and is not property described in clause *b* of subsection 1, the following rules apply,

- (a) the relevant percentage of the corporation's proceeds of disposition therefrom shall be included in computing the corporation's income for the fiscal year to the extent that the proceeds become receivable; and

- (b) where the corporation and the person who acquired the property were not dealing with each other at arm's length, for the purposes of this section and section 63,

- (i) the cost to that person of the property shall be deemed to be the amount included in the corporation's income by virtue of clause *a* in respect of the disposition by the corporation of the property, and

- (ii) when that person subsequently disposes of the property or any right or interest therein, that person shall be deemed to have owned

SECTION 25.—Subsection 1. Subsection 1 of section 59 of the Act is amended to require a corporation to include in income the selling price of a Canadian mining or oil right as it becomes receivable, rather than including (as previously) the entire selling price in the year of the sale. This amendment is required in order to adapt the section to "delay rental" arrangements, which are common in the oil industry and under which the full selling price is not known at the time of the sale.

Subsection 2. Subsection 3 of section 59 of the Act is amended to correct an anomaly which would have allowed a corporation to benefit more than once from the transitional rule by which only a portion of the selling price for a Canadian mining right owned at December 31, 1971 is included in income. Previously a corporation which owned such a right at December 31, 1971 could sell it, reacquire it and sell it again and obtain the special treatment for both sales; the amendment restricts the beneficial treatment to a corporation which has owned the property without interruption from December 31, 1971 until its sale.

Subsection 3. This amendment to subsection 4 of section 59 of the Act is complementary to the amendment to subsection 1 of section 59 of the Act.

Subsection 4. Subsection 5 of section 59 of the Act is re-enacted to provide definitions for certain expressions used in the other amendments to section 59 of the Act.

SECTION 26. Clause *b* of subsection 1 of section 60 of the Act, which permits a deduction from income in respect of expenses of certain appeals, is amended to allow the deduction of expenses of appeals in relation to a decision of the Unemployment Insurance Commission, a board of referees or an umpire under the *Unemployment Insurance Act, 1971* (Canada).

SECTION 27.—Subsection 1. Subsection 1 of section 61 of the Act is amended to make it clear that the reserve allowed under that section will not be permitted for amounts (from the sale of Canadian mining and oil rights) which have become due before the end of the fiscal year even though they may still be receivable.

Subsection 2. Complementary to the amendment in subsection 7 of section 28 of this Bill.

SECTION 28.—Subsection 1. This amendment to subsection 2 of section 63 of the Act will terminate effective May 7th, 1974 the special deduction of drilling costs of salt and potash corporations. This amendment is complementary to the amendment in subsection 12 of this section of this Bill by which such corporations will be treated as "principal business corporations".

Subsection 2. Clause *b* of subsection 3*a* of section 63 is amended to correct a typographical error.

the property on the 31st day of December, 1971 and thereafter without interruption until the disposition thereof.

- (3) Subsection 4 of the said section 59 is amended by striking out "clauses *b* and *c* of subsection 3" in the first line and inserting in lieu thereof "this section" and by striking out "any amount receivable as consideration for the" in the second and third lines and inserting in lieu thereof "proceeds of". s. 59 (4),
amended

- (4) Subsection 5 of the said section 59 is repealed and the following substituted therefor: s. 59 (5),
re-enacted

(5) In this section, "disposition" and "proceeds of disposition" have the meanings given to those expressions by section 56. "disposition"
and "proceeds
of disposition"

- 26.** Clause *b* of subsection 1 of section 60 of the said Act is repealed and the following substituted therefor: s. 60 (1) (b),
re-enacted

(b) amounts paid by the corporation in the fiscal year in respect of fees or expenses incurred in preparing, instituting or prosecuting an objection to, or an appeal in relation to, Expenses of
objection or
appeal

(i) an assessment of tax, interest or penalties under this Act or the *Income Tax Act* (Canada), or 1970-71,
c. 63 (Can.)

(ii) a decision of the Unemployment Insurance Commission, a board of referees or an umpire under the *Unemployment Insurance Act*, 1971 (Canada). 1970-71-72,
c. 48 (Can.)

- 27.—**(1) Subsection 1 of section 61 of the said Act is amended by striking out "receivable" in the thirteenth line and in the fifteenth line and inserting in lieu thereof in each instance "due". s. 61 (1),
amended

- (2) Clause *a* of subsection 1 of the said section 61 is amended by inserting after "59" in the first line "or clause *a* of subsection 10*b* of section 63". s. 61 (1) (a),
amended

- 28.—**(1) Subsection 2 of section 63 of the said Act is amended by inserting after "year" in the ninth line "and before the 7th day of May, 1974". s. 63 (2),
amended

- (2) Clause *b* of subsection 3*a* of the said section 63, as enacted by the Statutes of Ontario, 1974, chapter 75, s. 63 (3a) (b),
amended

section 5, is amended by striking out "section" in the fourth line and inserting in lieu thereof "subsection".

s. 63 (3a)
(b) (ii),
amended

- (3) Subclause ii of clause *b* of subsection 3a of the said section 63 is amended by striking out "section 100" in the second line and inserting in lieu thereof "sections 100 and 100a".

s. 63 (5),
amended

- (4) Subsection 5 of the said section 63 is amended by striking out "acquired from another principal-business corporation" in the third and fourth lines and inserting in lieu thereof "acquired, by purchase or otherwise, including an acquisition as the result of an amalgamation described in subsection 1 of section 81, from another principal-business corporation".

s. 63 (6),
amended

- (5) Subsection 6 of the said section 63 is amended by striking out "acquired from a corporation" in the third line and inserting in lieu thereof "acquired by purchase or otherwise, including an acquisition as a result of an amalgamation described in subsection 1 of section 81, from another corporation".

s. 63 (10),
re-enacted

- (6) Subsection 10 of the said section 63, as amended by the Statutes of Ontario 1974, chapter 75, section 5, is repealed and the following substituted therefor:

Limitation

(10) Except as otherwise provided in this section, where a corporation has incurred an outlay or expense in respect of which a deduction from income is authorized under more than one provision of this section, the corporation is not entitled to make the deduction under more than one provision but is entitled to select the provision under which to make the deduction.

s. 63,
amended

- (7) The said section 63, as amended by the Statutes of Ontario, 1973, chapter 157, section 17, and 1974, chapter 75, section 5, is further amended by adding thereto the following subsection:

Unitized
oil or gas
field in
Canada

- (10b) Where, pursuant to an agreement between a corporation and another person to unitize an oil or gas field in Canada, an amount has become receivable by the corporation at a particular time after the 6th day of May, 1974 from that other person in respect of Canadian exploration and development expenses incurred by the corporation, or expenses that would have been Canadian exploration and development expenses if they had been incurred by it after 1971, in respect of that field or any part thereof, the following rules apply,

Subsection 3. Complementary to the enactment of section 100a of the Act by section 54 of this Bill. The reference here to section 100a of the Act will mean that dividends from foreign affiliates must be deducted in determining the amount of income from which Ontario exploration and development expenses may be deducted.

Subsection 4. Subsection 5 of section 63 is amended to allow a mining or oil corporation which was formed by the amalgamation of similar corporations to carry forward and deduct the Canadian exploration and development expenses acquired from its predecessor corporations.

Subsection 5. Subsection 6 of section 63 is amended to allow Canadian exploration and development expenses to be carried forward through a second amalgamation and to be deducted by the corporation acquiring those expenses as a result of the second amalgamation.

Subsection 6. Subsection 10 of section 63 is amended for the purpose of clarification. This amendment adds a reference to "an outlay" because some items included in Canadian exploration and development expenses are of a capital nature.

Subsection 7. Subsection 10b is added to section 63 of the Act to require a corporation to include in income amounts receivable for Canadian exploration and development expenses under an agreement to unitize a Canadian oil or gas field, and to allow the deduction, as a drilling or exploration expense, any amounts payable for such expenses by a corporation under such an agreement.

Subsection 8. Subclause *i* of clause *a* of subsection 12 of section 63 is amended to correct an erroneous reference.

Subsection 9. This provision amends the definition of "Canadian exploration and development expenses" to include therein an annual payment for the preservation of Canadian resource properties. Subclause *va* is added to clause *b* of subsection 12 of section 63 to include in "exploration and development expense" annual payments for the preservation of Canadian resource property, including Canadian oil or gas properties.

Subsection 10. Subclause *vi* of clause *c* of subsection 12 of section 63 of the Act is amended to exclude from the definition of "Canadian resource property" those mining, oil or gas rights that are property of a trust, and to include in that definition a right to receive the proceeds from the sale of mining, oil or gas rights.

Subsection 11. The definition of "drilling or exploration expense" is amended by deleting the reference to the annual payments for the preservation of Canadian oil or gas properties. This amendment is complementary to the amendment in subsection 9 of this section of this Bill.

(a) there shall, at that time, be included in computing the corporation's income for the fiscal year the amount that became receivable by it; and

(b) there shall, at that time, be included by the other person, where that person is a corporation, in its drilling or exploration expense the amount that became payable by that corporation.

(8) Subclause i of clause *a* of subsection 12 of the said section 63 is amended by striking out "iii" in the first line and inserting in lieu thereof "ii". s. 63 (12) (a) (i),
amended

(9) Clause *b* of subsection 12 of the said section 63, as amended by the Statutes of Ontario, 1973, chapter 157, section 17, is further amended by striking out "and" at the end of subclause iv, by inserting "and" at the end of subclause v and by adding thereto the following subclause: s. 63 (12) (b),
amended

(va) any annual payment made by the corporation for the preservation of a Canadian resource property or property that would have been a Canadian resource property if it had been acquired by the corporation after 1971,

(10) Subclause vi of clause *c* of subsection 12 of the said section 63 is repealed and the following substituted therefor: s. 63 (12)
(c) (vi),
re-enacted

(vi) any right to or interest in any property, other than property of a trust, described in any of subclauses i to v, including a right to receive proceeds of disposition in respect of a disposition thereof.

(11) Clause *d* of subsection 12 of the said section 63 is repealed and the following substituted therefor: s. 63 (12) (d),
re-enacted

(d) "drilling or exploration expense" incurred on or in respect of exploring or drilling for petroleum or natural gas includes any expense incurred on or in respect of,

(i) drilling or converting a well for the disposal of waste liquids from a petroleum or natural gas well,

(ii) drilling for water or gas for injection into a petroleum or natural gas formation, or

- (iii) drilling or converting a well for the injection of water or gas to assist in the recovery of petroleum or natural gas from another well.

s. 63 (12) (f),
amended

- (12) Clause *f* of subsection 12 of the said section 63 is amended by striking out "or" at the end of subclause v, by striking out "and" at the end of subclause vi and inserting in lieu thereof "or" and by adding thereto the following subclause:

- (vii) production or marketing of sodium chloride or potash, or whose business includes manufacturing products the manufacturing of which involves processing sodium chloride or potash; and

s. 66 (5),
re-enacted

- 29. Subsection 5 of section 66 of the said Act is repealed and the following substituted therefor:

Idem

(5) Where in a fiscal year of a corporation property of the corporation has been appropriated in any manner whatever to, or for the benefit of, a shareholder, on the winding up of the corporation, the following rules apply,

- (a) for the purpose of computing the corporation's income for the fiscal year,

- (i) it shall be deemed to have sold each such property immediately before the winding up and to have received therefor the fair market value thereof at that time, and

- (ii) clause *c* of subsection 2 of section 42 shall not apply in computing the loss, if any, from the sale of any such property;

- (b) the shareholder shall be deemed to have acquired the property at a cost equal to its fair market value immediately before the winding up; and

- (c) subsections 1, 1*a* and 2 of section 54 are not applicable for the purposes of determining the cost to the shareholder of the property.

Idem

(6) Where a corporation that operates an oil or gas well or a mineral resource in Canada disposes of any petroleum, natural gas or related hydrocarbons or metal or industrial minerals produced in the operation of such well or resource to,

- (a) Her Majesty in right of Canada or a province;

Subsection 12. The definition of "principal business corporation" is amended to include corporations which produce, process or market salt or potash.

SECTION 29. Subsection 5 of section 66 of the Act is re-enacted to permit a corporation which is winding up to claim a loss based on fair market value when it distributes property to a shareholder; subsections 6 and 7 are added to the said section 66 to require that mining, oil or gas corporations use fair market values in calculating their income from the sale of minerals, oil or gas to the Crown or its agent, and in calculating their cost of minerals, oil or gas acquired from the Crown or its agent, in cases where the sale price is less than the fair market value or where the agreed cost of acquisition is greater than the fair market value; subsections 8, 9 and 10 are added to the said section 66 to clarify the meaning of certain expressions used in these amendments.

- (b) an agent of Her Majesty in right of Canada or a province; or
- (c) a corporation, commission or association that is controlled, directly or indirectly in any manner whatever, by Her Majesty in right of Canada or a province or by an agent of Her Majesty in right of Canada or a province,

for no proceeds of disposition or for proceeds of disposition less than the fair market value thereof at the time the corporation so disposes of it, the corporation shall be deemed to have received proceeds of disposition therefor equal to that fair market value determined, in circumstances where the corporation is required by a law or contract to so dispose thereof, without regard to that law or contract.

(7) Where a corporation that operates an oil or gas well ^{Idem} or a mineral resource in Canada acquires any petroleum, natural gas or related hydrocarbons or metal or industrial minerals produced in the operation of such well or resource from,

- (a) Her Majesty in right of Canada or a province;
- (b) an agent of Her Majesty in right of Canada or a province; or
- (c) a corporation, commission or association that is controlled, directly or indirectly in any manner whatever, by Her Majesty in right of Canada or a province or by an agent of Her Majesty in right of Canada or a province,

for an amount in excess of the fair market value thereof at the time the corporation so acquired the petroleum, natural gas or related hydrocarbons or metal or industrial minerals, the corporation shall be deemed to have acquired the petroleum, natural gas or related hydrocarbons or metal or industrial minerals at that fair market value determined, in circumstances where the corporation is required by a law or contract to so acquire the petroleum, natural gas or related hydrocarbons or metal or industrial minerals, without regard to that law or contract.

(8) For the purposes of subsection 6, the fair market value ^{Fair market value of resource output disposed of to Crown} at the time of disposition of a unit of any particular quantity of petroleum, natural gas or related hydrocarbons or metal or industrial minerals disposed of by the corporation referred to in that subsection to a person referred to in any of clauses *a* to *c* of that subsection shall be deemed to be the amount by which,

- (a) the average proceeds of disposition that became receivable in the month that included that time by that person for the disposition of a like unit from a person other than a person referred to in any of clauses *a* to *c* of subsection 6,

exceeds

- (b) the average aggregate of all expenses, including depreciation, incurred by that person in respect of that month for each such unit that may reasonably be attributed to transmitting, transporting, marketing or processing thereof to the extent that such expenses are reasonable and necessary and do not include any cost of acquisition thereof.

Fair market value of resource output acquired from Crown

(9) For the purposes of subsection 7, the fair market value of a unit of any particular quantity of petroleum, natural gas or related hydrocarbons or metal or industrial minerals acquired by the corporation referred to in that subsection from a person referred to in any of clauses *a* to *c* of that subsection shall be deemed to be equal to the amount, if any, paid or payable by the corporation to that person in respect of that unit.

Certain persons deemed to be the same person

(10) For the purposes of subsection 8, where a person referred to in any of clauses *a* to *c* of subsection 6 disposes of a unit of any particular quantity of petroleum, natural gas or related hydrocarbons or metal or industrial minerals to another person referred to in any of those clauses, those persons shall be deemed to be the same person.

s. 67 (4), re-enacted

30.—(1) Subsection 4 of section 67 of the said Act, as enacted by the Statutes of Ontario, 1973, chapter 157, section 18, is repealed and the following substituted therefor:

Debt deemed not to be income debt
R.S.C. 1970,
c. G-16

(4) Where a cash purchase ticket or other form of settlement prescribed pursuant to the *Canada Grain Act* or by the Minister is issued to a corporation in respect of grain delivered in a fiscal year of a corporation to a primary elevator or process elevator and such ticket or other form of settlement entitles the holder thereof to payment by the operator of the elevator of the purchase price, without interest, stated in the ticket for the grain at a date that is after the end of that fiscal year, the amount of the purchase price stated in the ticket or other form of settlement shall, notwithstanding any other provision of this section, be included in computing the income of the corporation to which the ticket or other form of settlement was issued for its fiscal year immediately

SECTION 30.—Subsection 1. The provision which defers for one year the inclusion in income of receipts issued for grain delivered to storage elevators is extended to include receipts for grain delivered to processing elevators.

Subsection 2. Complementary to subsection 1.

SECTION 31. Clause *a* of section 68 is amended to extend the present provision, which permits the deferral of a gain or loss on a bond conversion, to those bonds which did not have the conversion privilege at the time they were issued.

SECTION 32. Section 74*a* of the Act is amended by removing therefrom the exception relating to foreign affiliates—paragraphs *c* and *d* of subsection 4 of section 80.1 of the *Income Tax Act* (Canada) will now be applicable and a corporation will now be able to deduct from income certain dividends received in kind from a foreign affiliate and reduce the cost of shares in the foreign affiliate by the same amount. This amendment is complementary to the other amendments in this Bill relating to foreign accrual property income.

SECTION 33. This amendment is complementary to the amendments in subsection 2 of section 4 and subsection 1 of section 7 of this Bill. The new section 74*b* of the Act, enacted by this section of the Bill, makes it clear that where a mining, oil or gas corporation leases the lands from the owner thereof and reimburses the owner for the amounts referred to in the amendments in subsection 2 of section 4 and subsection 1 of section 7 of this Bill, the said amendments shall apply to the reimbursements paid by the corporation and not to the amount (the extent reimbursed) paid by the owner.

following the fiscal year in which the grain was delivered and not for the fiscal year in which the grain was delivered.

- (2) Subsection 5 of the said section 67, as enacted by the Statutes of Ontario, 1973, chapter 157, section 18, is amended by striking out "and 'primary elevator'" in the second line and inserting in lieu thereof "'primary elevator' and 'process elevator'". s. 67 (5),
amended

- 31.** Clause *a* of section 68 of the said Act is repealed and the following substituted therefor: s. 68 (a),
re-enacted

- (a) the terms of the bond for which it was exchanged conferred upon the holder thereof the right to make the exchange; and

- 32.** Section 74*a* of the said Act, as enacted by the Statutes of Ontario, 1973, chapter 157, section 20, is amended by striking out "except paragraphs *c* and *d* of subsection 4 thereof" in the eleventh line. s. 74*a*,
amended

- 33.** The said Act is further amended by adding thereto the following section: s. 74*b*,
enacted

74*b*. Where pursuant to a contract between a corporation and another person, in this section referred to as the "payee", any amount is paid or payable by the corporation or any property is transferred by the corporation to the payee as reimbursement in respect of any amount paid or payable referred to in clause *n* of subsection 1 of section 22 or the fair market value of any property paid or payable referred to in that clause by the payee to any of the persons referred to in any of subclauses *i* to *iii* of clause *n* of subsection 1 of section 22, for the purposes of this Act the following rules apply, Reimbursement by
corporation for payment
to Crown deemed
paid direct
to Crown

- (a) the corporation shall be deemed to have paid the amount or property, as the case may be, to a person or persons referred to in any of those subclauses;
- (b) the payee shall, to the extent of that reimbursement, be deemed not to have paid an amount or property, as the case may be;
- (c) the payee shall be deemed not to have received any reimbursement from the corporation; and
- (d) clause *o* of subsection 1 of section 16 shall not apply in respect of the amount or property paid or payable, as the case may be.

s. 75 (1) (c),
amended

34.—(1) Clause *c* of subsection 1 of section 75 of the said Act is amended by striking out “by it” in the second line.

s. 75 (2) (b),
amended

(2) Clause *b* of subsection 2 of the said section 75 is amended by adding thereto the following subclause:

(iii) “income derived from the operation of a mine” includes the income of a corporation from the processing, to the primary metal stage or its equivalent, of ore from a mineral resource owned by the corporation.

s. 78 (7),
amended

35. Subsection 7 of section 78 of the said Act is amended by inserting after “section” in the first line “or section 78*a*”.

s. 78*a*,
enacted

36. The said Act is further amended by adding thereto the following section:

Deemed
dividend
on repay-
ment of
debt

78*a*.—(1) Where, at any time before a particular time and after the 18th day of November, 1974, a corporation incurred any debt as consideration for the purchase of shares of the capital stock of a second corporation and,

(*a*) at any time before the debt was incurred, any particular person, or the group of persons to whom the debt was owed at the time it was incurred,

(i) controlled the second corporation, directly or indirectly in any manner whatever, or

(ii) beneficially owned shares of the capital stock of the second corporation representing more than 50 per cent of its paid-up capital; and

(*b*) at any time before the particular time, the particular person or group of persons referred to in clause *a*,

(i) controlled the corporation, directly or indirectly in any manner whatever,

(ii) beneficially owned shares of the capital stock of the corporation representing more than 50 per cent of its paid-up capital, or

(iii) held an amount of debt payable by the corporation that exceeded the paid-up capital of the corporation, at a time when shares of the capital stock of the corporation representing more than 50 per cent of its paid-up capital were beneficially owned by,

SECTION 34.—Subsection 1. Clause *c* of subsection 1 of section 75 of the Act is amended to extend the present exemption of Canadian income earned by foreign operators of ships and aircraft engaged in international traffic to those foreign corporations which own but do not operate such ships and aircraft.

Subsection 2. This amendment will make it clear that the income from a new mine, the exemption for which was terminated as of December 31st, 1973, includes income from the processing of ore to the primary metal stage.

SECTION 35. Subsection 7 of section 78, which provides the rule to determine when a deemed dividend is deemed to have become payable, is amended to apply to the deemed dividend referred to in section 78*a* as enacted by section 36 of this Bill.

SECTION 36. A new section 78*a* of the Act is enacted to treat as a deemed dividend an excessive amount repaid by a corporation on a debt which was originally incurred to purchase the over-valued shares of another corporation if the creditor controls both corporations.

THE UNIVERSITY OF CHICAGO
DIVISION OF THE PHYSICAL SCIENCES
DEPARTMENT OF CHEMISTRY

REPORT OF THE
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- (A) that particular person,
- (B) that group of persons,
- (C) persons related to the particular person or any member of the group of persons, or
- (D) any combination of persons referred to in sub-subclause A, B or C,

the following rules apply,

- (c) where the corporation has, at the particular time, made any payment on account of that debt, or any other debt substituted for that debt,

- (i) a dividend shall be deemed to have been paid by the corporation at the particular time equal to the lesser of,

- (A) the amount of that payment, and

- (B) the amount, if any, by which,

- 1. the aggregate of the payment referred to in sub-subclause A and all payments made before the particular time on account of that debt, or any other debt substituted therefor,

exceeds

- 2. the debt limit of the corporation in respect of that debt,

- (ii) a dividend shall be deemed to have been received at the particular time, by each person who received any portion of that payment, equal to that proportion of the dividend so deemed to have been paid by the corporation at that time that the portion of that payment received by that person is of the amount of that payment, and

- (iii) section 77, except clause c of subsection 1 of section 77, shall be applicable to the dividend referred to in subclause i as though the persons referred to in subclause ii were shareholders of a class of shares of the capital stock of the corporation; and

(d) where any portion of that debt or any debt substituted for that debt, is converted into shares of the capital stock of the corporation, an amount equal to the lesser of,

(i) the portion of that debt, or any debt substituted for that debt, that was so converted, and

(ii) the amount, if any, by which,

(A) the amount of the debt owed by the corporation at the time it was incurred,

exceeds

(B) the debt limit of the corporation in respect of that debt,

shall be added to the aggregate of the amounts determined under subclause *iva* of clause *d* of subsection 1 of section 83 at any time after the time of the conversion.

Debt limit
defined

(2) For the purposes of this section, the "debt limit" of a corporation in respect of any debt incurred by it as consideration for the purchase of shares of the capital stock of a second corporation shall be the amount, if any, by which,

(a) the amount of the debt owed by the corporation at the time it was incurred,

exceeds

(b) the amount if any, by which the aggregate of,

(i) the amount of the debt owed by the corporation at the time it was incurred, and

(ii) the fair market value, at the time the debt was incurred, of any other consideration, other than shares of the capital stock of the corporation, given by the corporation for the purchase of the shares of the capital stock of the second corporation,

exceeds the lesser of,

(iii) the paid-up capital limit of the second corporation at the time the debt was incurred, and

SECTION 37. A new section 78*b* of the Act is enacted to allow a corporation an alternative method of valuing shares or debt issued before November 19, 1974, provided the corporation notifies the Minister of its intention before July, 1976.

SECTION 38.—Subsection 1. Subsection 1 of section 79 of the Act, relating to transfers of property to a controlled corporation, is amended to extend the eligibility for deferral of realization of capital gains or losses to cases where the transferor receives shares or other consideration (the requirement that the transferor own 80 per cent of the shares is removed) and to restate the property to which the deferral will apply, so that it will apply to inventory and to Canadian mining, gas or oil properties acquired before 1972, but will not apply to real estate and options thereon owned by non-residents.

- (iv) the paid-up capital, at the time the debt was incurred, of the shares of the capital stock of the second corporation so purchased.

37. The said Act is further amended by adding thereto the following section: s. 78b,
enacted

- 78b. Where a corporation has at any particular time before July, 1976, notified the Minister in writing that it wishes, Special
rules
relating to
shares
issued or
debt
incurred
before
November 19,
1974
- (a) to have subclause *iva* of clause *d* of subsection 1 of section 83 apply to all shares, if any, issued by it before the 19th day of November, 1974; and
- (b) to have section 78a apply to all debt, if any, incurred by it before the 19th day of November, 1974,

the following rules apply,

- (c) subsection 6 of section 83 shall not apply for the purposes of computing the paid-up capital deficiency of the corporation at any time after the particular time;
- (d) section 78a shall be read without reference to "and after the 18th day of November, 1974";
- (e) the amount of any dividend that the corporation would, by virtue of clause *c* of subsection 1 of section 78a, be deemed to have paid in respect of payments, before the particular time, of or on account of any debt incurred by the corporation prior to the 19th day of November, 1974, or any debt substituted for that debt, shall be deemed to be nil;
- (f) subclause iii of clause *b* of subsection 2 of section 78a shall be read as "the paid-up capital limit of the second corporation at the time the debt was incurred or on the 18th day of November, 1974, where that day is later"; and
- (g) subclause iv of clause *b* of subsection 2 of section 78a shall be read as "the paid-up capital, at the time the debt was incurred, of the shares of the second corporation so purchased" (on the assumption that clause *c* of subsection 1 of section 83 applied at that time).

38.—(1) Subsection 1 of section 79 of the said Act, as amended by the Statutes of Ontario, 1973, chapter 157, section 21, s. 79 (1),
amended

is further amended by striking out all that portion thereof immediately preceding clause *a* and inserting in lieu thereof the following:

(1) Where a person has, after the 6th day of May, 1974, disposed of any property that was a capital property (other than real property or an option in respect thereof owned by a non-resident person), an eligible capital property, an inventory other than real property or a property referred to in subsection 2 of section 59 of the person to a Canadian corporation for consideration including shares of the capital stock of the corporation, if the person and the corporation, have jointly so elected in prescribed form and within the prescribed time, the following rules apply:

.

s. 79 (1),
amended

(2) Subsection 1 of the said section 79 is further amended by adding thereto the following clause:

(ca) where the property was inventory or capital property (other than depreciable property of a prescribed class) of the person and the amount that the person and the corporation have agreed upon in their election in respect of the property is less than the lesser of,

(i) the fair market value of the property at the time of the disposition, and

(ii) the cost amount to the person of the property at the time of the disposition,

the amount so agreed upon shall, irrespective of the amount actually so agreed upon by them, be deemed to be an amount equal to the lesser of the amounts described in subclauses i and ii.

s. 79 (1) (d),
amended

(3) Clause *d* of subsection 1 of the said section 79 is amended by striking out "and notwithstanding clauses *b* and *c*" in the fourteenth line.

s. 79 (1) (e),
amended

(4) Clause *e* of subsection 1 of the said section 79 is amended by striking out "and notwithstanding clauses *b* and *c*" in the fourteenth line.

s. 79 (1),
amended

(5) Subsection 1 of the said section 79 is further amended by adding thereto the following clauses:

(ea) where two or more properties, each of which is a property described in clause *d* or each of which is a property described in clause *e*, are disposed of at

Subsection 2. Clause *ca* added to subsection 1 of section 79 of the Act to provide the rule for determining the value at which certain capital property and inventory are transferred to a corporation, where the value agreed between the transferor and the corporation is less than both the cost and fair market value.

Subsections 3 and 4. Complementary to subsection 1, clauses *b* and *c* will now apply to the transfers of goodwill and depreciable property if these assets are transferred for consideration other than shares.

Subsection 5. The new clauses added by this amendment provide new rates to determine the value of property transferred to a corporation by its shareholders in certain cases.

the same time, clause *d* or *e*, as the case may be, applies as if each property so disposed of had been separately disposed of in the order designated by the person before the time prescribed for the filing of an election in respect of those properties or, if the person does not so designate any such order, in the order designated by the Minister;

(*eb*) where the fair market value of the property at the time of the disposition exceeds the greater of,

- (i) the fair market value at the time of the disposition of the consideration received by the person for the property disposed of by him, and
- (ii) the amount that the person and the corporation have agreed upon in their election in respect of the property, determined without reference to this clause,

and it is reasonable to regard any portion of such excess as a gift made by the person to or for the benefit of any other shareholder of the corporation, the amount that the person and the corporation have agreed upon in their election in respect of the property shall, irrespective of the amount actually so agreed upon by them, be deemed (except for the purposes of clauses *g* and *h*) to be an amount equal to the aggregate of,

- (iii) the amount referred to in subclause ii, and
- (iv) the portion of such excess that may reasonably be regarded as a gift made by the person to or for the benefit of any other shareholder of the corporation;

(*ec*) where, under any of clauses *ca*, *d* and *e*, the amount that the person and the corporation have agreed upon in their election in respect of the property, in this clause referred to as "the elected amount", would, subject to clause *c*, be deemed to be an amount that is greater or less than the amount that would be deemed to be the elected amount under clause *b*, the elected amount shall be deemed to be the greater of,

- (i) the amount deemed by clause *ca*, *d* or *e*, as the case may be, to be the elected amount, and

(ii) the amount deemed by clause *b* to be the elected amount.

s. 79 (1) (i),
re-enacted

(6) Clause *i* of subsection 1 of the said section 79 is repealed and the following substituted therefor:

(i) where the property so disposed of is taxable Canadian property of the person, all of the shares of the capital stock of the Canadian corporation received by him as consideration therefor shall be deemed to be taxable Canadian property of the person.

s. 79 (2),
re-enacted

(7) Subsection 2 of the said section 79, as amended by the Statutes of Ontario, 1973, chapter 157, section 21, is repealed and the following substituted therefor:

Transfer of
property to
corporation
from
partnership

(2) Where, after the 6th day of May, 1974,

(a) a partnership has disposed of any partnership property that was a capital property (other than real property or an interest therein owned by a partnership that was not a Canadian partnership at the time of the disposition), an eligible capital property, an inventory other than real property or a property referred to in subsection 2 of section 59 of the partnership to a Canadian corporation for consideration, including shares of the capital stock of the corporation; and

(b) the corporation and all the members of the partnership have jointly so elected in prescribed form and in prescribed time,

clauses *a* to *i* of subsection 1 and subsection 1*a* are applicable in respect of the disposition *mutatis mutandis* as if the partnership were a person resident in Canada who had disposed of the property to the corporation.

s. 79 (2*a*),
repealed

(8) Subsection 2*a* of the said section 79, as enacted by the Statutes of Ontario, 1973, chapter 157, section 21, is repealed.

s. 79 (4),
re-enacted

(9) Subsection 4 of the said section 79 is repealed and the following substituted therefor:

Where
loss from
disposition
of property
to controlled
corporation

(4) Where a person or a partnership has, after May 6, 1974, disposed of any capital property or eligible capital property of the person or partnership to a corporation that, immediately after the disposition, was controlled, directly or indirectly in any manner whatever, by the person or partner-

Subsection 6. This amendment in effect provides a deferral of the realization of a capital gain on the transfer of taxable Canadian property to a corporation by a non-resident person in consideration for shares of the corporation.

Subsection 7. Subsection 2 of section 79 of the Act is re-enacted to provide that the rules provided in subsection 1 of the said section 79, as amended by this Bill, and section 1a of the said section 79, with respect to transfers from individuals to corporations, shall apply to transfers of assets from partnerships to corporations.

Subsection 8. Complementary to subsection 7.

Subsection 9. Subsection 4 of section 79 of the Act is re-enacted to state in greater detail the rules by which a controlling shareholder will not be allowed to realize any capital losses on the transfer of his business assets to the corporation but is required instead to increase the cost of his shares of the corporation. The amendment retains the existing rules and adds specific rules for the treatment of terminal losses of goodwill on the transfer.

**THE ANTHROPOLOGY OF THE
FUTURE**

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ship, or where the person is an individual by the spouse of such person, or by another person or group of persons by whom the person or partnership was controlled, directly or indirectly in any manner whatever and, but for this subsection, subsection 2 of section 28 and clauses *c* and *e* of subsection 2 of section 42, the person or partnership would have had a capital loss therefrom or a deduction pursuant to clause *a* of subsection 1 of section 28 in computing the income of the person or partnership for the fiscal year in which the person or partnership ceased to carry on a business, as the case may be, the following rules apply,

- (a) notwithstanding section 28 and clauses *c* and *e* of subsection 2 of section 42, the capital loss therefrom of the person or partnership, or the deduction pursuant to clause *a* of subsection 1 of section 28 in computing the income of the person or partnership for the fiscal year in which the person or partnership ceased to carry on the business, as the case may be, otherwise determined shall be deemed to be nil; and
- (b) in computing the adjusted cost base to the person or partnership of all shares of any particular class of the capital stock of the corporation owned by the person or partnership immediately after the disposition, there shall be added, in the case of capital property, the amount that is equal to, and in the case of eligible capital property, twice the amount that is equal to, that proportion of the amount, if any, by which,
 - (i) the cost amount to the person or partnership immediately before the disposition, of the property so disposed of,

exceeds

- (ii) the proceeds to the person or partnership of disposition of the property or where the property was an eligible capital property, the eligible capital amount for the person or partnership, within the meaning assigned by section 18, as a result of the disposition of that property,

that

- (iii) the fair market value, immediately after the disposition, of all shares of that class so owned by the person or partnership,

is of

- (iv) the fair market value, immediately after the disposition, of all shares of the capital stock of the corporation so owned by the person or partnership.

s. 79a,
enacted

39. The said Act is further amended by adding thereto the following section:

Share for
share
exchange

79a.—(1) Where shares of any particular class of the capital stock of a Canadian corporation, in this section referred to as the “purchaser”, have, after the 6th day of May, 1974, been acquired by a person, in this section referred to as the “vendor”, from the purchaser in exchange for capital property of the vendor that is shares of any particular class of the capital stock, in this section referred to as the “exchanged shares”, of another corporation, in this section referred to as the “acquired corporation”, subject to subsection 2, the following rules apply,

- (a) except where the vendor has, in his return of income for the fiscal year in which the exchange occurred, included in computing his income for that year any portion of the gain or loss, otherwise determined, from the disposition of the exchanged shares, the vendor shall be deemed,
 - (i) to have disposed of the exchanged shares for proceeds of disposition equal to the adjusted cost base to him of those shares immediately before the exchange, and
 - (ii) to have acquired the shares of the purchaser at a cost to him equal to the adjusted cost base to him of the exchanged shares immediately before the exchange,

and where the exchanged shares were taxable Canadian property of the vendor, the shares of the purchaser so acquired by him shall be deemed to be taxable Canadian property of the vendor; and

- (b) the cost to the purchaser of each exchanged share at any particular time up to and including the time he disposed of such share, shall be deemed to be,
 - (i) its fair market value immediately before the exchange if, at the particular time or at any earlier time after the exchange, the purchaser owned shares of the capital stock of the acquired corporation,

SECTION 39. This amendment adds a new section 79a to the Act to permit a deferral in the realization of gains or losses in certain situations where a person exchanges shares of one corporation for shares of a Canadian corporation. In addition, certain provisions of the *Income Tax Act* (Canada) are made applicable with respect to certain dispositions of the shares of a foreign affiliate.

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1. The first part of the paper is devoted to a discussion of the general principles of the theory of the structure of the atom. It is shown that the structure of the atom is determined by the laws of quantum mechanics, and that the laws of quantum mechanics are derived from the principles of relativity and the theory of the structure of the atom.

2. The second part of the paper is devoted to a discussion of the general principles of the theory of the structure of the atom. It is shown that the structure of the atom is determined by the laws of quantum mechanics, and that the laws of quantum mechanics are derived from the principles of relativity and the theory of the structure of the atom.

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5. The fifth part of the paper is devoted to a discussion of the general principles of the theory of the structure of the atom. It is shown that the structure of the atom is determined by the laws of quantum mechanics, and that the laws of quantum mechanics are derived from the principles of relativity and the theory of the structure of the atom.

6. The sixth part of the paper is devoted to a discussion of the general principles of the theory of the structure of the atom. It is shown that the structure of the atom is determined by the laws of quantum mechanics, and that the laws of quantum mechanics are derived from the principles of relativity and the theory of the structure of the atom.

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(A) to which are attached not less than 10 per cent of all the votes that could then be cast for any and all purposes by holders of all shares of the capital stock of the acquired corporation, and

(B) that represent not less than 10 per cent of the fair market value of all issued and outstanding shares of the capital stock of the acquired corporation, and

(ii) in any other case, nil.

(2) Subsection 1 does not apply where,

Where subs. 1
not to apply

(a) the vendor and purchaser were, immediately before the exchange, not dealing with each other at arm's length;

(b) the vendor or persons with whom he did not deal at arm's length, or the vendor together with persons with whom he did not deal at arm's length,

(i) controlled, directly or indirectly in any manner whatever, the purchaser, or

(ii) beneficially owned shares of the capital stock of the purchaser representing more than 50 per cent of its paid-up capital,

immediately after the exchange;

(c) the vendor and the purchaser have filed an election under subsection 1 or 2 of section 79 with respect to the exchanged shares; or

(d) consideration other than shares of the particular class of the capital stock of the purchaser was received by the vendor for the exchanged shares, notwithstanding that the vendor may have disposed of shares of the capital stock of the acquired corporation, other than the exchanged shares, to the purchaser for consideration other than shares of one class of the capital stock of the purchaser.

(3) Where a person has disposed of capital property that was shares of the capital stock of a foreign affiliate of the person to any corporation that was, immediately following the disposition, a foreign affiliate of the person (in this sub-

Disposition
of shares
of foreign
affiliate

1970-71,
c. 63 (Can.)

s. 80,
re-enacted

Exchanges of
shares by a
shareholder
in course of
reorganiza-
tion of
capital

section referred to as the "acquiring affiliate") for consideration including shares of the capital stock of the acquiring affiliate, the provisions of subsection 3 of section 85.1 of the *Income Tax Act* (Canada) apply for the purposes of this Act.

40. Section 80 of the said Act is repealed and the following substituted therefor:

80.—(1) Where, at a particular time after the 6th day of May, 1974, in the course of a reorganization of the capital of a corporation, a person has disposed of capital property that was all the shares of any particular class of the capital stock of the corporation that were owned by him at the particular time, in this section referred to as the "old shares", and property is receivable from the corporation therefor that includes other shares of the capital stock of the corporation, in this section referred to as the "new shares", the following rules apply,

- (a) the cost to the person of any property (other than shares of the capital stock of the corporation) receivable by him for the old shares shall be deemed to be its fair market value at the time of the disposition;
- (b) the cost to the person of any new shares of any class of the capital stock of the corporation receivable by him for the old shares shall be deemed to be that proportion of the amount, if any, by which the aggregate of the adjusted cost bases to him, immediately before the disposition, of the old shares exceeds the fair market value at that time of the consideration receivable therefor (other than shares of the capital stock of the corporation) that,
 - (i) the fair market value, immediately after the disposition, of those new shares of that class,
 is of,
 - (ii) the fair market value, immediately after the disposition, of all new shares of the capital stock of the corporation receivable by him for the old shares; and
- (c) the person shall be deemed to have disposed of the old shares for proceeds of disposition equal to the cost to him of all new shares and other property receivable by him for the old shares.

SECTION 40. The existing provisions with respect to exchanges of shares by a shareholder in the course of a corporation's reorganization of its capital structure are amended to make it easier for a corporation to reorganize its capital structure without tax consequences to its shareholders and to simplify the calculations of the cost of shares.

SECTION 41.—Subsection 1. This amendment allows a deferral of taxes on an amalgamation of corporations even though certain assets and liabilities (including inter-company accounts receivable and payable all of which are normally eliminated on an amalgamation) are not transferred. Previously, all assets had to be transferred.

Subsection 2. This amendment allows a new corporation formed as a result of an amalgamation to adopt in calculating its business or investment income the method used by its predecessor corporations in calculating their business or investment income.

(2) This section is not applicable in any case where section 53 or any of subsections 1 to 3 of section 79 are applicable. Application

41.—(1) Clauses *a*, *b* and *c* of subsection 1 of section 81 of the said Act are repealed and the following substituted therefor: s. 81 (1) (a-c),
re-enacted

- (a) all of the property (except amounts receivable from any predecessor corporation or shares of the capital stock of any predecessor corporation) of the predecessor corporations immediately before the merger becomes property of the new corporation by virtue of the merger;
- (b) all of the liabilities (except amounts payable to any predecessor corporation) of the predecessor corporations immediately before the merger become liabilities of the new corporation by virtue of the merger; and
- (c) all of the shareholders (except any predecessor corporation) of the predecessor corporations immediately before the merger receive shares of the capital stock of the new corporation by virtue of the merger,

(2) Clause *c* of subsection 2 of the said section 81 is repealed and the following substituted therefor: s. 81 (2) (c),
re-enacted

- (c) in computing the income of the new corporation for a fiscal year from a business or property, Method
adopted for
computing
income
 - (i) there shall be included any amount received or receivable (depending upon the method followed by the new corporation in computing its income for that year) by it in that year that would, if it had been received or receivable (depending upon the method followed by the predecessor corporation in computing its income for its last fiscal year) by the predecessor corporation in its last fiscal year, have been included in computing the income of the predecessor corporation for that year, and
 - (ii) there may be deducted any amount paid or payable (depending upon the method followed by the new corporation in computing

its income for that year) by it in that year that would, if it had been paid or payable (depending upon the method followed by the predecessor corporation in computing its income for its last fiscal year) by the predecessor corporation in its last fiscal year, have been deductible in computing the income of the predecessor corporation for that year.

s. 81 (2),
amended

- (3) Subsection 2 of the said section 81, as amended by the Statutes of Ontario, 1973, chapter 157, section 22, is further amended by adding thereto the following clause:

Depreciable
property
acquired
from
predecessor
corporation

- (*da*) for the purposes of this Act, where depreciable property, other than property of a prescribed class, has been acquired by the new corporation from a predecessor corporation, the new corporation shall be deemed to have acquired the property before 1972 at an actual cost equal to the actual cost thereof to the predecessor corporation, and the new corporation shall be deemed to have been allowed the aggregate of all amounts allowed to the predecessor corporation in respect of the property, under regulations made under clause *a* of subsection 1 of section 24, in computing the income of the predecessor corporation.

s. 81 (2) (*k*),
re-enacted

- (4) Clause *k* of subsection 2 of the said section 81 is repealed and the following substituted therefor:

Scientific
research

- (*k*) for the purposes of section 39,

- (i) an amount equal to the aggregate of all amounts each of which is the amount of an expenditure referred to in clause *a* of subsection 1 of section 39 made by a predecessor corporation shall, to the extent that it was not deducted by the predecessor corporation in computing its income for a fiscal year, be deemed to be an expenditure of a current nature on scientific research made in Canada by the new corporation in its first fiscal year,
- (ii) an amount equal to the aggregate of all amounts each of which is the amount of an expenditure referred to in subclause *i* of clause *b* of subsection 1 of section 39 made by a predecessor corporation shall, to the extent that it was not deducted by the

Subsection 3. This amendment provides for the transfer on an amalgamation of the costs and the undeducted balances of those costs of certain farming or fishing assets.

Subsection 4. These amendments allow the transfer to a new corporation formed as the result of an amalgamation of the undeducted balances of current scientific research expenditures incurred by a predecessor corporation (this amendment is complementary to the amendments contained in section 13 of this Bill) and allow the transfer to the new corporation of rights which its predecessor had to the deferral of realizations of capital gains in respect of property that has been lost, destroyed or expropriated (this amendment is complementary to the amendments contained in section 17 of this Bill).

It is a very common mistake to suppose that the only way to get the most out of a book is to read it straight through from beginning to end. This is not true. The best way to get the most out of a book is to read it in a way that suits your own needs and interests. This may mean reading it in a different order, or skipping some parts, or reading it in a way that is more convenient for you.

There are many ways to read a book, and the best way is the one that works best for you. Some people like to read a book straight through, while others prefer to read it in a more selective way. The important thing is to find a way that works for you and to get the most out of the book.

One way to read a book is to read it straight through from beginning to end. This is the most common way to read a book, and it can be a good way to get a general idea of what the book is about. However, it is not always the best way to get the most out of a book. Sometimes, it is better to read a book in a more selective way, skipping some parts and reading others more carefully. This can be a good way to get the most out of a book, especially if you are interested in a particular part of the book.

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predecessor corporation in computing its income for a fiscal year, be deemed to be an expenditure of a capital nature on scientific research made in Canada by the new corporation in its first fiscal year,

- (iii) an amount equal to the aggregate of all amounts each of which is the amount of an expenditure referred to in clause *c* of subsection 1 of section 39 made by a predecessor corporation shall, to the extent that it was not deducted by a predecessor corporation in computing its income for a fiscal year, be deemed to be an expenditure incurred by the new corporation in its first fiscal year by way of repayment of an amount paid to the new corporation under an *Appropriation Act* (Canada), and on terms and conditions described in clause *c* of subsection 1 of section 39, and
- (iv) an amount equal to the aggregate of all amounts each of which is an amount paid to a predecessor corporation referred to in clause *d* of subsection 1 of section 39 shall be deemed to be an amount paid to the new corporation in its first fiscal year under an *Appropriation Act* (Canada) and on terms and conditions described in clause *c* of subsection 1 of section 39;
- (ka) if the amalgamation was after the 6th day of May, 1974 and a property of a predecessor corporation was lost, destroyed or taken under statutory authority prior to the amalgamation, sections 17 and 46 apply to the new corporation as though,
 - (i) the new corporation had been in existence and owned that property at the time it was so lost, destroyed or taken,
 - (ii) the cost or capital cost, as the case may be, of that property to the new corporation were its cost or capital cost, as the case may be, to the predecessor corporation, and
 - (iii) where the predecessor corporation had acquired a replacement property for that property before the amalgamation, the new corporation had acquired that replacement property immediately after the amalgamation.

Property
lost,
destroyed
or taken

s. 81 (2) (p),
amended

- (5) Clause *p* of subsection 2 of the said section 81 is amended by inserting after "time" in the third line "after the amalgamation".

s. 81 (2) (q),
amended

- (6) Clause *q* of subsection 2 of the said section 81 is amended by striking out all that portion thereof immediately preceding subclause i and inserting in lieu thereof the following:

1971 capital
surplus on
hand and
paid-up
capital
deficiency

- (q) for the purpose of computing the 1971 capital surplus on hand or the paid-up capital deficiency, as the case may be, of the new corporation at any time after the amalgamation, there shall be added to the aggregate of the amounts determined under subclause iv of clause *l* of subsection 1 of section 83, the amount, if any, by which,

s. 81 (2) (r),
amended

- (7) Clause *r* of subsection 2 of the said section 81 is amended by striking out all that portion thereof immediately preceding subclause i and inserting in lieu thereof the following:

Idem

- (r) for the purpose of computing the 1971 capital surplus on hand or the paid-up capital deficiency, as the case may be, of the new corporation at any time after the amalgamation, there shall be added to the aggregate of the amounts determined under subclause iii of clause *d* of subsection 1 of section 83 the amount, if any, by which,

s. 81 (2),
amended

- (8) Subsection 2 of the said section 81 is further amended by adding thereto the following clause:

Idem

- (ra) for the purpose of computing the 1971 capital surplus on hand or the paid-up capital deficiency, as the case may be, of the new corporation at any time after the amalgamation, there shall be added to the aggregate of the amounts determined under subclause iii of clause *d* of subsection 1 of section 83 the amount, if any, by which,

- (i) the paid-up capital of the new corporation immediately after the amalgamation,

exceeds

- (ii) the aggregate of amounts each of which is the paid-up capital in respect of a share

Subsection 5. This amendment corrects a typographical error.

Subsections 6, 7 and 8. These amendments provide a special procedure which a new corporation formed as a result of an amalgamation must use in calculating the values for its shares and its retained earnings to ensure that these values reflect the values of its predecessors.

Subsection 9. This amendment is complementary to the amendments in subsection 6 of section 43 of this Bill.

Subsection 10. This amendment provides that certain provisions of the *Income Tax Act* (Canada) are applicable where shares of a foreign affiliate are acquired as a result of an amalgamation of Canadian corporations.

Subsection 11. Clause *w* of subsection 2 of section 81 of the Act is amended to simplify the calculation of the capital dividend account of a new corporation at any time after an amalgamation, whereby the balances of the predecessors' capital dividend accounts are added to the capital dividend account of the new corporation.

Subsection 12. Complementary to the amendments in section 43 of this Bill.

Subsections 13, 14 and 15. These provisions amend the existing provisions for deferral of realizations of gains and losses on shares of a corporation being amalgamated to allow similar deferrals with respect to options to shares and securities issued by the corporation. In addition certain provisions of the *Income Tax Act* (Canada) are made applicable where there is a merger of a foreign affiliate with another corporation and the resulting corporation becomes a foreign affiliate of the taxpayer corporation.

(except a share held by any other predecessor corporation) of the capital stock of a predecessor corporation immediately before the amalgamation.

- (9) Clause *s* of subsection 2 of the said section 81 is amended <sup>s. 81 (2) (s),
amended</sup> by striking out "vii" in the fourth line and inserting in lieu thereof "xiv".
- (10) Subsection 2 of the said section 81 is further amended <sup>s. 81 (2),
amended</sup> by adding thereto the following clause:
- (sa) where one or more shares of the capital stock <sup>Shares of
foreign
affiliate</sup> of a foreign affiliate of a predecessor corporation have, by virtue of the amalgamation, been acquired by the new corporation and as a result thereof the affiliate has become a foreign affiliate of the new corporation, the provisions of paragraph *u* of subsection 2 of section 87 of the *Income Tax Act* (Canada) <sup>1970-71,
c. 63 (Can.)</sup> apply for the purposes of this Act.
- (11) Clause *w* of subsection 2 of the said section 81 is repealed <sup>s. 81 (2) (w),
re-enacted</sup> and the following substituted therefor:
- (w) for the purpose of computing, at any particular <sup>Capital
dividend
account</sup> time after the amalgamation, the capital dividend account for a new corporation that has been a private corporation continuously from the time of the amalgamation to the particular time, there shall be added the amount of the capital dividend account of any predecessor corporation immediately before the amalgamation.
- (12) Clause *a* of subsection 3 of the said section 81 is amended <sup>s. 81 (3) (a),
amended</sup> by striking out "subclauses i to iv" in the eighth line and inserting in lieu thereof "subclause iii".
- (13) Subsection 4 of the said section 81, as amended by the <sup>s. 81 (4),
re-enacted</sup> Statutes of Ontario, 1973, chapter 157, section 22, is repealed and the following substituted therefor:

(4) Where there has been an amalgamation of two or <sup>Shares of
predecessor
corporation</sup> more corporations after the 6th day of May, 1974, each shareholder (except any predecessor corporation) who, immediately before the amalgamation, owned shares of the capital stock of a predecessor corporation (in this subsection referred to as the "old shares") that were capital property to him and who received no consideration for the disposition of those shares on the amalgamation, other than shares of the capital stock of the new corporation (in this section referred to as the "new shares") shall be deemed,

- (a) to have disposed of the old shares for proceeds equal to the aggregate of the adjusted cost bases to him of those shares immediately before the amalgamation; and
- (b) to have acquired the new shares of any particular class of the capital stock of the new corporation at a cost to him equal to that proportion of the proceeds described in clause *a* that,
 - (i) the fair market value, immediately after the amalgamation, of all new shares of that particular class so acquired by him,

is of

- (ii) the fair market value, immediately after the amalgamation, of all new shares so acquired by him,

and where the old shares were taxable Canadian property of the shareholder, the new shares shall be deemed to be taxable Canadian property of the shareholder.

s. 81 (5),
re-enacted

- (14) Subsection 5 of the said section 81, as re-enacted by the Statutes of Ontario, 1973, chapter 157, section 22, is repealed and the following substituted therefor:

Options to
acquire
shares of
predecessor
corporation

(5) Where there has been an amalgamation of two or more corporations after the 6th day of May, 1974, each person, except any predecessor corporation, who immediately before the amalgamation owned a capital property that was an option to acquire shares of the capital stock of a predecessor corporation, in this subsection referred to as the "old option", and who received no consideration for the disposition of that option on the amalgamation, other than an option to acquire shares of the capital stock of the new corporation, in this subsection referred to as the "new option", shall be deemed,

- (a) to have disposed of the old option for proceeds equal to the adjusted cost base to him of that option immediately before the amalgamation; and
- (b) to have acquired the new option at a cost to him equal to the proceeds described in clause *a*,

and where the old option was taxable Canadian property of the person, the new option shall be deemed to be taxable Canadian property of the person.

- (15) Subsection 6 of the said section 81 is repealed and the following substituted therefor: s. 81 (6),
re-enacted

(6) Notwithstanding subsection 7, where there has been an amalgamation of two or more corporations after the 6th day of May, 1974, each person, except any predecessor corporation, who immediately before the amalgamation owned a capital property that was a bond, debenture, mortgage, note or other similar obligation of a predecessor corporation, in this subsection referred to as the "old property", and who received no consideration for the disposition of the old property on the amalgamation other than a bond, debenture, mortgage, note or other similar obligation respectively, of the new corporation, in this subsection referred to as the "new property", shall, if the amount payable to the holder of the new property on its maturity is the same as the amount that would have been payable to the holder of the old property on its maturity, be deemed,

- (a) to have disposed of the old property for proceeds equal to the adjusted cost base to him of that property immediately before the amalgamation; and
- (b) to have acquired the new property at a cost to him equal to the proceeds described in clause a.

(7) Where there has been an amalgamation of two or more corporations after the 6th day of May, 1974 and, Idem

- (a) a debt or other obligation of a predecessor corporation, other than any such debt or other obligation owed to any other predecessor corporation, was outstanding immediately before the amalgamation and became a debt or other obligation, as the case may be, of the new corporation on the amalgamation; and
- (b) the amount payable by the new corporation on the maturity of the debt or other obligation, as the case may be, is the same as the amount that would have been payable by the predecessor corporation on its maturity,

the provisions of this Act,

- (c) shall not apply in respect of the transfer of such debt or other obligation to the new corporation; and

- (d) shall apply as if the new corporation had incurred or issued the debt or other obligation at the time it was incurred or issued by the predecessor corporation.

Merger of
foreign
affiliate

(8) Where there has been a merger of a foreign affiliate of a person, in this subsection referred to as a "predecessor affiliate", and one or more other corporations to form one corporate entity that, immediately after the merger, is a foreign affiliate of the person and such merger is not as a result of the acquisition of property of one corporation by another corporation, pursuant to the purchase of such property by the other corporation, or as a result of the distribution of such property to another corporation upon the winding up of the predecessor affiliate, the provisions of subsection 8 of section 87 of the *Income Tax Act* (Canada) apply for the purposes of this Act.

1970-71,
c. 63 (Can.)

s. 82 (1),
amended

- 42.—**(1) Subsection 1 of section 82 of the said Act, as amended by the Statutes of Ontario, 1973, chapter 157, section 23, is further amended by striking out all that portion thereof immediately preceding clause *b* and inserting in lieu thereof the following:

Winding up
of wholly-
owned
Canadian
corporation

(1) Where a Canadian corporation, in this section referred to as the "subsidiary", has been wound up after the 6th day of May, 1974 and all of the issued shares of the capital stock thereof were, immediately before the winding up, owned by another Canadian corporation, in this section referred to as the "parent", notwithstanding any other provisions of this Act, the following rules apply,

- (a) subject to clause *aa*, each property of the subsidiary that was distributed to the parent on the winding up shall be deemed to have been disposed of by the subsidiary for proceeds equal to,

(i) in the case of any property described in subsection 2 of section 59, nil,

(ii) in the case of any eligible capital property, an amount equal to twice the cost amount to the subsidiary of such property immediately before the winding up, and

(iii) in the case of any other property, the cost amount to the subsidiary of the property immediately before the winding up;

(*aa*) each property of the subsidiary that was distributed to the parent on the winding up shall, for

SECTION 42.—Subsections 1 to 5. Subsection 1 of section 82 of the Act is amended so that a winding up of a wholly-owned subsidiary of a Canadian corporation will be treated in much the same way as an amalgamation.

the purpose of subclause ii or xiv of clause *l* of subsection 1 of section 83, be deemed not to have been disposed of.

- (2) Subclause ii of clause *b* of subsection 1 of the said section 82, as amended by the Statutes of Ontario, 1973, chapter 157, section 23, is further amended by striking out "minus any subsequent deduction from that adjusted cost base that is required by subsection 2 of section 55 to be made as a result of the deemed dividend referred to in clause *e*" in the amendment of 1973. s. 82 (1) (b) (ii),
amended

- (3) Clause *d* of subsection 1 of the said section 82 is amended by striking out all that portion immediately preceding subclause ii and inserting in lieu thereof the following: s. 82 (1) (d),
amended

(*d*) the amount determined under this clause in respect of each property that was a capital property, other than a depreciable property, of the subsidiary is such portion of the amount, if any, by which the aggregate determined under subclause ii of clause *b* exceeds the aggregate of,

(i) the amount, if any, by which,

(A) the aggregate of amounts each of which is an amount in respect of any property owned by the subsidiary immediately before the winding up, equal to the cost amount to the subsidiary of the property immediately before the winding up, plus the amount of any money of the subsidiary on hand immediately before the winding up,

exceeds the aggregate of,

(B) all amounts each of which is the amount of any debt owing by the subsidiary, or of any other obligation of the subsidiary to pay any amount, that was outstanding immediately before the winding up, and

(C) the amount of any reserve, other than a reserve referred to in clause *p* of subsection 1 of section 24, subclause iii of clause *a* of subsection 1 of section 42 or subsection 1 of section 61, deducted in computing the subsidiary's

income for its fiscal year during which its assets were distributed to the parent on the winding up,

(ia) the amount of the subsidiary's tax-paid undistributed surplus on hand at the time it was wound up, and

(ib) the amount of the subsidiary's 1971 capital surplus on hand at the time it was wound up,

as is designated by the parent in respect of that capital property in its return of income under this Part for its fiscal year in which the subsidiary was so wound up, except that,

s. 82 (1) (e),
re-enacted

(4) Clause *e* of subsection 1 of the said section 82, as amended by the Statutes of Ontario, 1973, chapter 157, section 23, is repealed and the following substituted therefor:

(e) subsection 2 of section 78 and section 21 of *The Corporations Tax Application Rules, 1972* are not applicable to the winding up of the subsidiary;

(ea) the subsidiary may, for the purpose of computing its income for its fiscal year during which its assets were transferred to the parent on the winding up, claim any reserve that would have been allowed under this Part if its assets had not been transferred to the parent on the winding up and notwithstanding any other provision of this Part, no amount shall be included in respect of any reserve so claimed in computing the income of the subsidiary for its fiscal year, if any, following the year in which its assets were transferred to the parent;

(eb) the provisions of clauses *c*, *da*, *g* to *sa*, *v* and *w* of subsection 2 of section 81 and, subject to section 69, subsection 7 of section 81 apply to the winding up as if the references therein to,

(i) "amalgamation" were read as "winding up",

(ii) "predecessor corporation" were read as "subsidiary",

(iii) "new corporation" were read as "parent";

- (iv) "its first fiscal year" were read as "its fiscal year during which it received the assets of the subsidiary on the winding up",
 - (v) "its last fiscal year" were read as "its fiscal year during which its assets were distributed to the parent on the winding up",
 - (vi) "predecessor corporation's gain" were read as "subsidiary's gain",
 - (vii) "new corporation's gain" were read as "parent's gain",
 - (viii) "predecessor corporation's income" were read as "subsidiary's income",
 - (ix) "new corporation's income" were read as "parent's income",
 - (x) "tax-paid undistributed surplus on hand immediately before the amalgamation" were read as "tax paid undistributed surplus on hand, at the time the subsidiary was wound up",
 - (xi) "the aggregate of amounts each of which is the 1971 capital surplus on hand, if any, of a predecessor corporation immediately before the amalgamation" were read as "the amount of the subsidiary's 1971 capital surplus on hand at the time the subsidiary was wound up",
 - (xii) "the aggregate of amounts each of which is the paid-up capital deficiency, if any, of a predecessor corporation immediately before the amalgamation" were read as "the amount of the subsidiary's paid-up capital deficiency at the time the subsidiary was wound up", and
 - (xiii) "the capital dividend account of any predecessor corporation immediately before the amalgamation" were read as "the capital dividend account of the subsidiary at the time the subsidiary was wound up";
- (ec) for the purposes of clauses *a* and *b* of subsection 1 of section 98, gifts made by the subsidiary in its last fiscal year shall, to the extent that they were

not deductible in computing its taxable income for that fiscal year, be deemed to have been made by the parent in its first fiscal year ending after the subsidiary was wound up; and

s. 82 (2),
amended

- (5) Subsection 2 of the said section 82, as enacted by the Statutes of Ontario, 1973, chapter 157, section 23, is amended by striking out "whether or not it is a subsidiary" in the first and second lines and inserting in lieu thereof "other than a subsidiary" and by striking out "1971" in the third line and inserting in lieu thereof "the 6th day of May, 1974".

s. 82 (2) (a) (vi),
re-enacted

- (6) Subclause vi of clause *a* of subsection 2 of the said section 82 is repealed and the following substituted therefor:

(vi) each property of the corporation that was so distributed at the particular time shall be deemed to have been disposed of by the corporation immediately before the end of the fiscal year so deemed to have ended for proceeds equal to the fair market value thereof immediately before the particular time; and

s. 82 (2) (b),
amended

- (7) Clause *b* of subsection 2 of the said section 82 is amended by striking out "or clause *e* of subsection 1" in the second line.

s. 82,
amended

- (8) The said section 82 is further amended by adding thereto the following subsection:

Dissolution
of foreign
affiliate

(3) Where on the dissolution of a foreign affiliate of a person one or more shares of the capital stock of another foreign affiliate of the person have been disposed of to the person, the provisions of subsection 3 of section 88 of the *Income Tax Act* (Canada) apply for the purposes of this Act.

1970-71,
c. 63 (Can.)

s. 83 (1) (b) (i),
re-enacted

- 43.**—(1) Subclause i of clause *b* of subsection 1 of section 83 of the said Act is repealed and the following substituted therefor:

(i) one-half of the amount, if any, by which the aggregate of the capital gains of the corporation, for the period commencing on the first day of the first fiscal year commencing after the time the corporation last became a private corporation and ending after 1971, and ending immediately before the particular time, exceeds the aggregate of its capital losses for that period.

Subsections 6 and 7. These amendments terminate the application of subsection 2 of section 82 of the Act to wholly-owned subsidiaries. Complementary to subsections 1 to 5 of this section of the Bill.

Subsection 8. This amendment makes certain provisions of the *Income Tax Act* (Canada) applicable where on the dissolution of a foreign affiliate, shares of another foreign affiliate are distributed to the corporate taxpayer.

SECTION 43.—Subsection 1. By this amendment the subclause will state more precisely the period during which the net capital gains of a private corporation will accumulate in its capital dividend account.

Subsection 2. The definition of "paid-up capital", applicable to the income tax provisions of the Act, is amended to provide for separate calculations for each share, for each class of shares and for all shares.

- (2) Clause *c* of subsection 1 of the said section 83 is repealed ^{s. 83 (1) (c),} and the following substituted therefor: ^{re-enacted}

(c) "paid-up capital" at any particular time means,

(i) in respect of a share of any class of the capital stock of a corporation, an amount equal to the paid-up capital at that time, in respect of the class of shares of the capital stock of the corporation to which that share belongs, divided by the number of issued shares of that class outstanding at that time,

(ii) in respect of a class of shares of the capital stock of a corporation, the amount, if any, by which the aggregate of,

(A) an amount equal to the paid-up capital in respect of that class of shares at that time, determined without reference to this subclause,

(B) all amounts each of which is an amount in respect of the issue of any share of that class by the corporation before that time equal to the amount, if any, by which,

1. the fair market value, at the time that share was issued, of the consideration received by the corporation for the issue of that share,

exceeds

2. the amount by which the paid-up capital referred to in sub-subclause A was increased by virtue of the issue of that share, and

(C) all amounts each of which is the amount by which,

1. that portion of the amount, if any, by which,

i. any contribution of property, other than eligible capital property, before that time to the corporation by a shareholder who owned shares of that class,

exceeds

- ii. any consideration given by the corporation in respect of that contribution of property,

that cannot reasonably be regarded as a gift made to or for the benefit of any other shareholder of the corporation,

exceeds

- 2. the portion of the portion determined under paragraph 1 that has otherwise been included in the paid-up capital in respect of that or any other class of shares of the capital stock of the corporation,

exceeds the aggregate of,

- (D) all amounts each of which is an amount in respect of the redemption, acquisition or cancellation in any manner whatever, before that time, of a share of that class by the corporation equal to the amount, if any, by which,

- 1. the paid-up capital in respect of that share immediately before such redemption, acquisition or cancellation,

exceeds

- 2. the reduction in the amount of the paid-up capital referred to in sub-subclause A by virtue of such redemption, acquisition or cancellation,

- (E) all amounts each of which is an amount in respect of a reduction of the paid-up capital of that class, before that time, otherwise than by way of redemption, acquisition or cancellation of shares of that class equal to the amount, if any, by which,

Subsection 3. These amendments to the definition of "paid-up capital deficiency" are complementary to the amendments, in subsections 2 and 6 of this section of this Bill, to the definitions of "paid-up capital" and "1971 capital surplus on hand".

1. the amount paid by the corporation on the reduction of the paid-up capital,

exceeds

2. the reduction in the amount of the paid-up capital referred to in sub-subclause A by virtue of such reduction, and

(F) all amounts each of which is the amount of a dividend that the corporation would, but for this clause, have been deemed, by subsection 1 of section 78, to have paid before that time on an increase in the paid-up capital of that class of shares other than an increase on the issue of a share of that class or by virtue of the amalgamation of two or more corporations, and

(iii) in respect of all the shares of the capital stock of a corporation, an amount equal to the aggregate of all amounts each of which is an amount equal to the paid-up capital in respect of any class of shares of the capital stock of the corporation at the particular time.

(3) Clause *d* of subsection 1 of the said section 83 is amended <sup>s. 83 (1) (d),
amended</sup> by striking out all that portion thereof immediately preceding subclause v and inserting in lieu thereof the following:

(d) “paid-up capital deficiency” of a corporation at any particular time after the 6th day of May, 1974 means the amount, if any, by which the aggregate of,

- (i) the amounts determined under subclauses xii and xiii of clause *l* in respect of the corporation,
- (ii) all amounts determined under subclauses xiv, xv and xviii of clause *l* in respect of the corporation at the particular time,
- (iii) all amounts each of which is an amount equal to the paid-up capital at the particular time in respect of a share of the capital stock of

the corporation issued after 1971 that was received by a person as described in subsection 1 of section 37 if that person, or that person together with other persons with whom he does not deal at arm's length, controlled the corporation directly or indirectly in any manner whatever immediately after the time the share was issued,

- (iv) where subsection 1 or 2 of section 79 has been applicable in respect of any disposition of property (other than a disposition after the 6th day of May, 1974 and before the 19th day of November, 1974) to the corporation before the particular time, the amount, if any, by which,

- (A) the amount by which any increase, by virtue of the disposition, in the paid-up capital of the corporation exceeds any increase, by virtue of the disposition, in the value of its assets (determined as though the value of any property so transferred were its cost to the corporation for the purposes of this Part and as though this Part were read without reference to subsection 5 of section 79) less its liabilities,

exceeds

- (B) the amount by which any increase, by virtue of the disposition, in the paid-up capital of the corporation exceeds any increase, by virtue of the disposition, in the value of its assets less its liabilities, and

- (iva) where the particular time is after the 18th day of November, 1974 and where at any time before the particular time the corporation issued any shares of its capital stock as consideration for the purchase of shares of the capital stock of a second corporation and,

- (A) at any time before those shares were so issued, any particular person or the group of persons to whom those shares were issued,

1. controlled the second corporation, directly or indirectly in any manner whatever, or

2. beneficially owned shares of the capital stock of the second corporation representing more than 50 per cent of its paid-up capital, and

(B) at any time before the particular time, the particular person or group of persons referred to in sub-subclause A,

1. controlled the corporation directly or indirectly in any manner whatever,
2. beneficially owned shares of the capital stock of the corporation representing more than 50 per cent of its paid-up capital, or
3. held an amount of debt payable by the corporation that exceeded the paid-up capital of the corporation, at a time when shares of the capital stock of the corporation representing more than 50 per cent of its paid-up capital were beneficially owned by,

- i. that particular person,

- ii. that group of persons,

- iii. persons related to that particular person or any member of that group of persons, or

- iv. any combination of persons referred to in this paragraph,

all amounts each of which is an amount in respect of any shares so issued at any given time equal to the amount, if any, by which the lesser of,

- (C) subject to subsection 6, the increase in the paid-up capital of the corporation by virtue of the issue of those shares, on the assumption that clause c applied on the issue of those shares, and

(D) the amount, if any, by which the aggregate of the increase in the paid-up capital of the corporation by virtue of the issue of those shares, on the assumption that clause *c* applied on the issue of those shares, and the fair market value at that time of any other consideration given by the corporation at that time for the purchase of the shares of the second corporation exceeds the lesser of,

1. the paid-up capital limit of the second corporation at that time or on the 18th day of November, 1974 where that day is later, and
2. the aggregate of all amounts each of which is the paid-up capital at that time of each share of the second corporation so purchased at that time, on the assumption that clause *c* applied at that time,

exceeds the aggregate of,

(E) the amount of any dividend that the corporation is deemed by virtue of subsection 1 of section 78 to have paid as a result of the issue of those shares, and

(F) the amount determined under subclause iv in respect of the corporation as a result of the issue of those shares,

exceeds the aggregate of,

s. 83 (1) (d) (vi),
amended

- (4) Subclause vi of clause *d* of subsection 1 of the said section 83 is amended by striking out "iii, iv and iv.1" in the second line and inserting in lieu thereof "to x".

s. 83 (1) (d) (ix),
amended

- (5) Subclause ix of clause *d* of subsection 1 of the said section 83 is amended by inserting after "clause *a*" in the sixth line "or *c*".

Subsection 4. Complementary to the amendment to the definition of "1971 capital surplus on hand" in subsection 6 of this section of this Bill.

Subsection 5. This amendment provides that the "restricted farm losses" of hobby farmers are to be deducted when computing the "paid-up capital deficiency" of a corporation.

Subsection 6. In this provision the definition of "1971 capital surplus on hand" is amended to adopt the changes to that expression enacted in the *Income Tax Act* (Canada).

- (6) Clause 1 of subsection 1 of the said section 83, as amended by the Statutes of Ontario, 1973, chapter 157, section 24, is repealed and the following substituted therefor: s. 83 (1) (D),
re-enacted

- (1) "1971 capital surplus on hand" of a corporation at any particular time after the 6th day of May, 1974, means the amount, if any, by which the aggregate of,
- (i) the tax equity of the corporation at the end of its 1971 fiscal year,
 - (ii) subject to subsection 5, all amounts each of which is an amount in respect of a capital property of the corporation owned by it on December 31, 1971 and disposed of by it after that date and before the particular time equal to the amount, if any, by which the lesser of its fair market value on the day fixed by proclamation for the purposes of subdivision B and the corporation's proceeds of disposition thereof exceeds its actual cost to the corporation determined without reference to *The Corporations Tax Application Rules, 1972*, other than subsections 15, 17 and 21 to 27 of section 26 thereof,
 - (iii) all amounts each of which is an amount in respect of a capital property owned by it at the end of its 1971 fiscal year or acquired by it thereafter and disposed of by the corporation before 1972, equal to the amount, if any, by which the corporation's proceeds of disposition thereof exceeds its actual cost to the corporation determined without reference to *The Corporations Tax Application Rules, 1972*,
 - (iv) all amounts each of which is an amount in respect of a dividend received by the corporation on a share of the capital stock of another corporation after 1971 and before the particular time, which amount was, by virtue of subsection 1 of section 77, not included in computing the income of the corporation by virtue of this Subdivision, minus such portion, if any, of that amount as was payable out of the other corporation's tax-paid undistributed surplus on hand, and

- (v) all amounts each of which is an amount in respect of an eligible capital amount, within the meaning given to that expression by subsection 1 of section 18, in respect of a business carried on by the corporation that became payable to the corporation in a fiscal year commencing after the time the corporation last became a private corporation and ending before the particular time, equal to the amount, if any, by which,

- (A) the amount that the eligible capital amount would be but for the provisions of the *Corporations Tax Application Rules, 1972*, relating to section 18,

exceeds

- (B) the aggregate of

1. the eligible capital amount, and
2. where the amount in respect of an eligible capital amount is received as consideration for the disposition of, or for allowing the expiry of, a government right, within the meaning given to that expression by the *Corporations Tax Application Rules, 1972*, such amount as is included in respect thereof in the tax equity of the corporation at the end of its 1971 fiscal year by virtue of subclause iia of clause *h*,

- (vi) all amounts each of which is an amount that became payable to the corporation after the end of its 1971 fiscal year and before 1972 in respect of a property, owned by it at the end of its 1971 fiscal year or acquired by it thereafter and disposed of by it before 1972, that would have been eligible capital property if it had been disposed of after 1971, equal to the amount, if any, by which the amount that became payable exceeds any amount included in respect of that property in the tax equity of the corporation at the end of its 1971 fiscal year by virtue of subclause iia of clause *h*,

(vii) all amounts each of which is an amount equal to the amount, if any, by which,

(A) the aggregate of all amounts that have become due to the corporation before the particular time in respect of the disposition after 1971 of a property owned by the corporation on the 31st day of December, 1971 that is a property referred to in clause *b* of subsection 2 of section 59,

exceeds

(B) the relevant percentage, within the meaning given to that expression by subsection 4 of section 59, of the amount receivable by the corporation in respect of that disposition,

(viii) all amounts each of which is an amount receivable in respect of a property referred to in clause *b* of subsection 2 of section 59 owned by the corporation at the end of its 1971 fiscal year or acquired by it thereafter and disposed of by it before 1972,

(ix) all amounts each of which is an amount deducted by virtue of clause *b* of subsection 1 or 2 of section 31*a* in computing the income of the corporation for a fiscal year ending before the particular time,

(x) the amount, if any, by which,

(A) the proceeds of any life insurance policy received by the corporation after the end of its 1971 fiscal year and before 1972 as the result of the death of any person whose life was insured under the policy,

exceeds

(B) the aggregate of,

1. all amounts included in the tax equity of the corporation at the end of its 1971 fiscal year in respect of the policy, and

2. all amounts paid as or on account of premiums paid under the policy by the corporation after the end of its 1971 fiscal year and before 1972, and

- (xi) all amounts determined under subclauses vii and x of clause *d* in respect of the corporation at the particular time,

exceeds the aggregate of,

- (xii) the paid-up capital of the corporation at the end of its 1971 fiscal year in respect of all of the shares of its capital stock,

- (xiii) the amount that the corporation's undistributed income on hand, within the meaning given to that expression by the *Income Tax Act* (Canada) as it read in its application to the 1971 fiscal year, would be at the end of its 1971 fiscal year if,

R.S.C. 1952,
c. 148

- (A) that Act as it so read were read without reference to subparagraph iii of paragraph *a* of subsection 1 of section 82 thereof,

- (B) references in paragraph *a* of subsection 1 of section 82 of that Act, except clause A of subparagraph vii thereof, to "1917" were read as references to "1950", and

- (C) no amount were allowed as a deduction under subparagraph ii of paragraph *a* of subsection 1 of section 82 of that Act as it read in its application to that year that was not deductible in computing the corporation's income for the 1971 or any previous fiscal year for the purposes of Part I of that Act as it read in its application to that year, but would have been deductible in computing its income for the 1971 fiscal year if that Act as it read in its application to that year had been read without reference to any restriction on the quantum of any deduction thereunder,

Subsection 7. The subsections added to section 83 of the Act will establish the value to be used in the calculation of "1971 capital surplus on hand" for depreciable property that was acquired by a corporation prior to 1949 (subsection 4); establish for purposes of calculating the "1971 capital surplus on hand" and the "paid-up capital deficiency" special calculations of the value of shares in associated companies which were owned on December 31, 1971 and which are disposed of after that date in the course of certain capital re-organizations whereby the taxes on gains and losses after 1972 are deferred (subsection 5); and supply a special calculation to reduce the "paid-up capital deficiency" for certain dispositions of shares made between May 6, 1974 and November 18, 1974 (subsection 6).

(xiv) subject to subsection 5, all amounts each of which is an amount in respect of a capital property, other than depreciable property, of the corporation owned by it on the 31st day of December, 1971 and disposed of by it after that date and before the particular time equal to the amount, if any, by which its actual cost to the corporation determined without reference to *The Corporations Tax Application Rules, 1972*, other than subsections 15, 17, and 21 to 27 of section 26 thereof, exceeds the greater of the fair market value of the property on the day fixed by proclamation for the purposes of subdivision B and the corporation's proceeds of disposition thereof,

(xv) all amounts each of which is an amount in respect of a capital property, other than depreciable property, owned by it at the end of its 1971 fiscal year or acquired by it thereafter and disposed of by it before 1972, equal to the amount, if any, by which its actual cost to the corporation determined without reference to *The Corporations Tax Application Rules, 1972* exceeds the corporation's proceeds of disposition thereof,

(xvi) all amounts determined under subclauses iii and *iva* of clause *d* in respect of the corporation at the particular time,

(xvii) where the particular time is after the 18th day of November, 1974, all amounts determined under subclause iv of clause *d* in respect of the corporation at the particular time, and,

(xviii) all amounts each of which is an amount in respect of a dividend that became payable by the corporation before the particular time, equal to the portion, if any, thereof payable out of its 1971 capital surplus on hand.

(7) The said section 83 is further amended by adding thereto the following subsections: s. 83,
amended

(4) For the purposes of subclause vi of clause *d* and subclauses ii and iii of clause *l* of subsection 1, the actual cost of depreciable property that was acquired by a corporation before the commencement of its 1949 fiscal year that is Deemed
capital cost
of certain
depreciable
property

R.S.C. 1952,
c. 148

Rules
concerning
the 1971
capital
surplus on
hand and
paid-up
capital
deficiency

1970-71,
c. 63 (Can.)

capital property referred to in those subclauses shall be deemed to be the capital cost of such property to the corporation, within the meaning given to that expression by section 144 of the *Income Tax Act* (Canada) as it read in its application to the 1971 fiscal year.

(5) For the purposes of determining the 1971 capital surplus on hand or paid-up capital deficiency of a corporation at any particular time after the 6th day of May, 1974, the following rules apply:

(a) the amount referred to in subclauses ii and xiv of clause 1 of subsection 1 in respect of a capital property of the corporation shall be deemed to be nil, where the property disposed of is,

(i) a share of the capital stock of a subsidiary corporation referred to in subsection 1 of section 82 that was disposed of on the winding-up of the subsidiary where that winding-up commenced after the 29th day of May, 1973,

(ii) a share of the capital stock of another Canadian corporation that was controlled, within the meaning given to that expression by subsection 2 of section 186 of the *Income Tax Act* (Canada), by the corporation immediately before the disposition and that was disposed of by the corporation after 1971 to a person with whom the corporation was not dealing at arm's length immediately after the disposition, other than by a disposition referred to in clause b, or

(iii) subject to subsection 21 of section 26 of *The Corporations Tax Application Rules, 1972*, a share of the capital stock of a particular corporation that was disposed of by the corporation after the 6th day of May, 1974, on an amalgamation, within the meaning given to that expression by subsection 1 of section 81, where the corporation controlled, within the meaning given to that expression by subsection 2 of section 186 of the *Income Tax Act* (Canada), both the particular corporation immediately before the amalgamation and the new corporation immediately after the amalgamation; and

(b) where another corporation that is a Canadian corporation owned a capital property on the 31st day

SECTION 44. The new section 83*a* provides the rules to determine the fair market value of a share, bond, debenture, mortgage or similar obligation which has been converted into a share of the capital stock of the issuing corporation. In addition subsection 2 of section 83*a* sets out the procedure for determining the paid-up capital of the shares of a corporation formed as the result of an amalgamation; and subsection 3 requires a corporation to adjust its paid-up capital where it has elected to pay a tax-free dividend.

of December, 1971 and subsequently disposed of it to the corporation in a transaction to which section 79 applied, the other corporation shall be deemed not to have disposed of that property in the transaction and the corporation shall be deemed to have owned that property on the 31st day of December, 1971 and to have acquired it at an actual cost equal to the actual cost of that property to the other corporation.

(6) Where subclause *iva* of clause *d* of subsection 1 has applied to the issue, prior to the 19th day of November, 1974, of any share of the capital stock of a corporation, for the purpose of sub-subclause C of subclause *iva* of clause *d* of subsection 1, the increase in the paid-up capital of the corporation by virtue of the issue of that share shall, subject to section 78*b*, be deemed to be equal to the amount that would be determined under sub-subclause B of subclause *ii* of clause *c* of subsection 1 in respect of the issue of that share if clause *c* of subsection 1 were applicable at that time.

Reduction
in paid-up
capital
deficiency

44. The said Act is further amended by adding thereto the following section: s. 83a,
enacted

83a.—(1) For the purposes of paragraph 1 of sub-subclause B of subclause *ii* of clause *c* of subsection 1 of section 83, where a corporation has issued any shares of a particular class of its capital stock in exchange for another share, bond, debenture, mortgage, note or other similar obligation of the corporation, in this subsection referred to as a “convertible property”, the fair market value of the convertible property at the time the shares of the particular class were issued shall be deemed to be an amount equal to,

Paid-up
capital:
special
rules on
conversion
of property

(a) where the convertible property was a share, the amount of the paid-up capital in respect of that share immediately before the exchange; or

(b) where the convertible property was a debt owing by the corporation, the amount of that debt immediately before the exchange.

(2) Where there has been an amalgamation, within the meaning given to that expression by section 81, of two or more corporations, each of which corporations is in this subsection referred to as a “predecessor corporation”, to form one corporate entity, in this subsection referred to as the “new corporation”,

Paid-up
capital in
respect of
amalgama-
tions

- (a) for the purposes of paragraph 1 of sub-subclause B of subclause ii of clause c of subsection 1 of section 83, the new corporation shall be deemed to have received no consideration for any shares of its capital stock that were issued on the amalgamation;
- (b) the paid-up capital in respect of any particular class of the capital stock of the new corporation shall, at any particular time after the amalgamation and after the 6th day of May, 1974, be increased by the amount, if any, by which,
 - (i) the aggregate of all amounts each of which is the paid-up capital, immediately before the amalgamation, in respect of a share of the capital stock of a predecessor corporation, other than a share owned by another predecessor corporation,

exceeds

- (ii) the aggregate of all amounts each of which is the paid-up capital, referred to in sub-subclause A of subclause ii of clause c of subsection 1 of section 83, immediately after the amalgamation, in respect of a class of shares of the capital stock of the new corporation,

to the extent that that amount has not been included in the paid-up capital of any other class of shares of the capital stock of the new corporation; and

- (c) where the amalgamation occurred prior to the 7th day of May, 1974, the paid-up capital, immediately before the amalgamation, of a share of the capital stock of a predecessor corporation shall, for the purposes of subclause i of clause b be determined as though subclauses i and ii of clause c of subsection 1 of section 83 applied immediately before the amalgamation.



Paid-up
capital:
where
dividend
paid

(3) Where a corporation has made an election under subsection 1 of section 77 in respect of a dividend on a particular class of shares of the capital stock of the corporation that has, before the 19th day of November, 1974, become payable, or was paid if that event was earlier than the time it became payable, and,

- (a) the portion of the dividend that was payable out of the corporation's 1971 capital surplus on

SECTION 45. This amendment provides that the foreign accrual property income provisions of the *Income Tax Act* (Canada) are to apply in computing under *The Corporations Tax Act, 1972*, the income of a resident corporation.

SECTION 46.—Subsection 1. These amendments add rules to the partnership provisions of the Act relating to the allocation of a share of the income or loss of a partnership to a corporation which has ceased to be a partner.

hand if the paid-up capital of the corporation in respect of any class of shares of its capital stock at the end of its 1971 fiscal year was the amount determined under sub-subclause A of subclause ii of clause c of subsection 1 of section 83 in respect of that class at that time,

exceeds

- (b) the portion of the dividend that would have been payable out of the corporation's 1971 capital surplus on hand if the paid-up capital of the corporation in respect of any class of shares of its capital stock at the end of its 1971 fiscal year was the amount determined under subclause ii of clause c of subsection 1 of section 83 without reference to this subsection in respect of that class at that time,

notwithstanding any other provision of this Act, the paid-up capital in respect of the particular class of shares at the end of the corporation's 1971 fiscal year and at any time after the 18th day of November, 1974, shall be reduced by the amount, if any, by which the amount referred to in clause a exceeds the amount referred to in clause b.

45. The said Act is further amended by adding thereto the following section: s. 84a,
enacted

84a. It is hereby declared that the provisions of sections 91, 92, 93, 94 and 95 of the *Income Tax Act* (Canada) shall apply to this Act for the purpose of computing the income for a fiscal year of a corporation resident in Canada. Income of
corporations
from foreign
affiliates
1970-71,
c. 63 (Can.)

- 46.—(1) Section 85 of the said Act, as amended by the Statutes of Ontario, 1973, chapter 157, section 25, is further amended by adding thereto the following subsections: s. 85,
amended

(1a) For the purposes of subsection 1 and sections 90 and 92, Allocation
of share
of income to
retiring
partner

- (a) where the principal activity of a partnership is carrying on a business in Canada and the members thereof have entered into an agreement to allocate a share of the income or loss of the partnership from any source or from sources in a particular place, as the case may be, to any corporation that at any time ceased to be a member of,

(i) the partnership, or

- (ii) a partnership that at any time has ceased to exist or would, but for subsection 1 of section 87 have ceased to exist, and either,

(A) the members thereof, or

(B) the members of another partnership in which, immediately after that time, any of the members referred to in sub-subclause A became members,

have agreed to make such an allocation to the corporation,

that corporation shall be deemed to be a member of the partnership; and

(b) all amounts each of which is an amount equal to the share of the income or loss referred to in this subsection allocated to a corporation from a partnership in respect of a particular fiscal year of the partnership shall, notwithstanding any other provision of this Act, be included in computing the corporation's income for the fiscal year in which that fiscal year of the partnership ends.

Disposal
of right
to share
in income,
etc.

(1b) Where in a fiscal year a corporation that has a right to a share of the income or loss of a partnership under an agreement referred to in subsection 1a disposes of that right,

(a) there shall be included in computing its income for the year the proceeds of the disposition; and

(b) for greater certainty, the cost to the corporation of each property received by it as consideration for the disposition is the fair market value of the property at the time of the disposition.

Deductions

(1c) Where, by virtue of subsection 1a or 1b, an amount has been included in computing a corporation's income for a fiscal year, there may be deducted in computing its income for the year the lesser of,

(a) the amount so included in computing its income for the year; and

(b) the amount, if any, by which the cost to the corporation of the right to a share of the income or loss of a partnership under an agreement referred to in subsection 1a exceeds the aggregate of all amounts in respect of that right that were deductible by virtue of this subsection in computing its income for previous fiscal years.

Right
deemed not
to be capital
property

(1d) For the purposes of this Act, a right to a share of the income or loss of a partnership under an agreement refer-

Subsection 2. This amendment by adding a reference to subsection 2 of section 86 of the Act (which deals with an election relating to property transferred by a partner to a partnership) provides that where property is transferred to a partnership by a corporation which thereafter becomes a member, any election relating to the cost or proceeds of disposition of that property will be valid if it is executed on behalf of the corporation and the members of the partnership.

SECTION 47.—Subsection 1. Complementary to the amendments in section 48 of this Bill.

Subsection 2. This amendment will allow a corporation to have a deferral of realization of a capital gain that would otherwise result where the partnership of which it was a member has ceased to exist and the corporation carries on the business of the partnership as a sole proprietorship using property received from the partnership.

red to in subsection 1a shall be deemed not to be capital property.

(1e) Where any activity in Ontario of a partnership in a fiscal year is such that, if it were a corporation, it would be subject to clause *a* or *b* of subsection 2 or 3 of section 2, as the case may be, each corporation that is deemed by clause *a* of subsection 1a to be a member of the partnership shall be deemed to be subject to clause *a* or *b* of subsection 2 or 3 of section 2, as the case may be, for that fiscal year.

Members of partnership deemed to have a permanent establishment in Ontario

(2) Subsection 3 of the said section 85, as enacted by the Statutes of Ontario, 1973, chapter 157, section 25, is amended by striking out "or" in the eighth line and by inserting after "36" in the ninth line "or subsection 2 of section 86".

s. 85 (3), amended

47.—(1) Subsection 2 of section 87 of the said Act is repealed.

s. 87 (2), repealed

(2) The said section 87 is amended by adding thereto the following subsection:

s. 87, amended

(5a) Where at any particular time after 1971 a Canadian partnership has ceased to exist and within three months after the particular time one, but not more than one, of the persons who were, immediately before the particular time, members of that partnership, carries on by himself the business that was the business of the partnership and continues to use, in the course of the business, any property that was, immediately before the particular time partnership property and that was received by him as proceeds of disposition of his interest in the partnership, and where that one person is a corporation, hereafter in this section referred to as the "proprietor corporation", the following rules apply:

Where partnership business carried on as sole proprietorship

(a) the proprietor corporation's proceeds of disposition of its interest in the partnership shall be deemed to be an amount equal to the greater of,

(i) the aggregate of the adjusted cost base to it, immediately before the particular time, of its interest in the partnership, and the cost to it of all interests in the partnership deemed by clause *g* to have been acquired by it at the particular time, and

(ii) the aggregate of,

(A) the cost amount to the partnership, immediately before the particular time, of each property so received by it, and

- (B) the amount of any other proceeds of the disposition of its interest in the partnership received by it;
- (b) the cost to the proprietor corporation of each such property so received by it shall be deemed to be an amount equal to,
 - (i) the cost amount to the partnership of the property immediately before that time,
 plus,
 - (ii) where the amount determined under subclause i of clause *a* exceeds the amount determined under subclause ii of clause *a*, the amount determined under clause *c* or *d*, as the case may be, in respect of the property;
- (c) the amount determined under this clause in respect of each such property so received by it that is a capital property, other than depreciable property, of the proprietor corporation is such portion of the excess, if any, described in subclause ii of clause *b* as is designated by it in respect of the property, except that,
 - (i) in no case shall the amount so designated in respect of any such property exceed the amount, if any, by which the fair market value of the property immediately after the particular time exceeds the cost amount to the partnership of the property immediately before that time, and
 - (ii) in no case shall the aggregate of amounts so designated in respect of all such capital properties, other than depreciable property, exceed the excess, if any, described in subclause ii of clause *b*;
- (d) the amount determined under this clause in respect of each such property so received by it that is depreciable property or a property other than a capital property of the proprietor corporation is such portion of,
 - (i) the amount, if any, by which the excess, if any, described in subclause ii of clause *b*

exceeds the aggregate of amounts designated by it under clause *c* in respect of all capital properties, other than depreciable property,

as is designated by it in respect of the property, except that,

- (ii) in no case shall the amount so designated in respect of any such property exceed the amount, if any, by which the fair market value of the property immediately after the particular time exceeds the cost amount to the partnership of the property immediately before that time, and
 - (iii) in no case shall the aggregate of amounts so designated in respect of all such properties of the proprietor corporation that are depreciable property or properties other than capital properties, exceed one-half of the amount determined under subclause *i* in respect of the proprietor corporation;
- (*e*) where any such property so received by it was depreciable property of a prescribed class of the partnership and the amount that was the capital cost to the partnership of that property exceeds the amount determined under clause *b* to be the cost to the proprietor corporation of the property, for the purposes of sections 17 and 24 and any regulations made under clause *a* of subsection 1 of section 24,
- (i) the capital cost to the proprietor corporation of the property shall be deemed to be the amount that was the capital cost to the partnership of the property, and
 - (ii) the excess shall be deemed to have been allowed to the proprietor corporation in respect of the property under regulations made under clause *a* of subsection 1 of section 24 in computing income for fiscal years before the acquisition by it of the property;
- (*f*) the partnership shall be deemed to have disposed of each such property for proceeds equal to the cost amount to the partnership of the property immediately before the particular time; and

- (g) where, at the particular time, all other persons who were members of the partnership immediately before that time have disposed of their interests in the partnership to the proprietor corporation, the proprietor corporation shall be deemed at that time to have acquired partnership interests from those other persons and not to have acquired any property that was property of the partnership.

ss. 87a, 87b,
enacted

48. The said Act is further amended by adding thereto the following sections:

Residual
interest in
partnership

87a.—(1) Where, but for this subsection, at any time after 1971 a corporation has ceased to be a member of a partnership of which it was a member immediately before that time, the following rules apply,

- (a) until such time as all its rights (other than a right to a share of the income or loss of the partnership under an agreement referred to in subsection 1a of section 85) to receive any property of or from the partnership in satisfaction of its interest in the partnership immediately before the time that it ceased to be a member of the partnership are satisfied in full, such interest, in this section referred to as a “residual interest”, shall, subject to section 50 but notwithstanding any other section of this Act, be deemed not to have been disposed of by the corporation and to continue to be an interest in the partnership;
- (b) where all of the corporation’s rights described in clause a are satisfied in full before the end of the fiscal year of the partnership in which it ceased to be a member thereof, it shall, notwithstanding clause a, be deemed not to have disposed of its residual interest until the end of that fiscal year;
- (c) notwithstanding subsection 3 of section 42, where at the end of a fiscal year of the partnership, in respect of a residual interest in the partnership,
 - (i) the aggregate of all amounts required by subsection 2 of section 55 to be deducted in computing the adjusted cost base to the corporation of the residual interest at that time,

exceeds

SECTION 48. The new sections 87*a* and 87*b* provide rules with respect to "residual interests" in partnerships and rights to property of partnerships in situations where a corporation has ceased to be a member of the partnership and where a corporation has acquired the "residual interest" in a partnership on the death of an individual.

- (ii) the aggregate of the cost to it of the residual interest determined for the purpose of computing the adjusted cost base to it of that interest at that time and all amounts required by subsection 1 of section 55 to be added to the cost to it of the residual interest in computing the adjusted cost base to it of that interest at that time,

the amount of the excess shall be deemed to be a gain of the corporation for the year from a disposition at that time of that residual interest; and

(d) where a corporation has a residual interest,

- (i) by virtue of clause *b*, it shall, except for the purposes of subsection 3 of section 98, be deemed not to be a member of the partnership, and
- (ii) in any other case, it shall except for the purposes of subsection 3 of section 79, be deemed not to be a member of the partnership.

(2) Where a partnership, in this subsection referred to as the "original partnership", has or would but for subsection 1 of section 87 have ceased to exist at a time when a corporation had rights described in clause *a* of subsection 1 in respect of that partnership and the members of another partnership agree to satisfy all or part of those rights, that other partnership shall, for the purposes of clause *a* of subsection 1, be deemed to be a continuation of the original partnership.

87*b*. Where by virtue of the death of an individual a corporation has acquired a property that was an interest in a partnership to which, immediately before the individual's death, section 87*a* applied,

- (a) the corporation shall be deemed to have acquired a right to receive partnership property and not to have acquired an interest in a partnership;
- (b) the corporation shall be deemed to have acquired the right referred to in clause *a* at a cost equal to the amount determined to be the proceeds of disposition of the interest in the partnership to the deceased individual by virtue of paragraph *a* of subsection 5 of section 70 or paragraph *d* of subsection 6 of section 70, as the case may be, of the *Income Tax Act* (Canada); and

Continuation
of original
partnership

Transfer
of interest
on death

1970-71,
c. 63 (Can.)

(c) section 45 is not applicable to the right.

s. 89 (2) (b),
re-enacted

49. Clause *b* of subsection 2 of section 89 of the said Act is repealed and the following substituted therefor:

(b) the aggregate of,

- (i) the cost to the corporation of the interest in the partnership determined for the purpose of computing the adjusted cost base to it of that interest at that time, and
- (ii) all amounts required by subsection 1 of section 55 to be added to the cost to it of that interest in computing the adjusted cost base to it of that interest at that time.

s. 96,
amended

50.—(1) Section 96 of the said Act, as amended by the Statutes of Ontario, 1973, chapter 157, section 26, is further amended by adding thereto the following subsection:

Cost of
capital
interest in a
testamentary
trust

(1a) For the purposes of subsection 1 and notwithstanding clause *c* of subsection 1 of section 66, the cost to a corporation of a capital interest in a testamentary trust shall be deemed to be,

- (a) where the interest was purchased, the cost otherwise determined;
- (b) where paragraph *c* of subsection 5 of section 70 of the *Income Tax Act* (Canada) applies, the cost therein determined; and
- (c) in any other case, nil.

1970-71,
c. 63 (Can.)

s. 96 (3),
amended

(2) Subsection 3 of the said section 96 is amended by striking out "that proportion" in the ninth line and in the tenth line and inserting in lieu thereof in each instance "the amount".

s. 97 (1) (c),
amended

51. Clause *c* of subsection 1 of section 97 of the said Act, as amended by the Statutes of Ontario, 1973, chapter 157, section 27, is further amended by inserting after "trust" in the second line "other than a trust that is a foreign affiliate of the corporation".

s. 100 (1) (c),
repealed

52.—(1) Clause *c* of subsection 1 of section 100 of the said Act is repealed.

s. 100 (2),
amended

(2) Subsection 2 of the said section 100 is amended by striking out "corporation" in the second line and inserting in lieu thereof "corporation, other than a foreign affiliate of the corporation".

SECTION 49. This amendment provides that in calculating the gain or loss from the sale by a corporation of an interest in a partnership, the amount used as the cost is the same amount as is determined elsewhere in the Act to be the cost.

SECTION 50.—Subsection 1. This amendment provides the rules to determine cost to a corporation of a capital interest in a testamentary trust.

Subsection 2. This amendment is made for the purpose of clarification.

SECTION 51. This amendment redefines "cost amount" of any capital interest of a corporation in a trust so that it will not apply to a trust which is a foreign affiliate of the corporation. Trusts which are foreign affiliates are dealt with elsewhere in this Bill.

SECTION 52.—Subsection 1. This amendment removes the provision entitling a corporation to a deduction from income with respect to dividends received from foreign affiliates. This is complementary to the amendment in section 53 of this Bill.

Subsection 2. By this amendment dividends received from foreign affiliates are excluded from the general provisions relating to dividends received from non-resident corporations that are taxable in Canada. This is complementary to the other amendments in this Bill dealing specifically with dividends received from foreign affiliates.

Subsection 3. These amendments will restrict the ability of corporations and securities dealers to deduct losses on shares which they hold for investment purposes or for trading purposes. Subsection 3 of section 100, relating to losses on shares held for investment purposes, is extended to apply to securities dealers; and subsection 4 of section 100, relating to losses on shares held for trading purposes, is extended to apply to corporations other than securities dealers. In addition a new subsection 4a is added to section 100 to require that in establishing the fair market value of a share contained in inventory, the amount of any dividends received, other than capital gains dividends received from mutual funds or investment corporations, should be deducted from the fair market value otherwise determined.

- (3) Subsections 3 and 4 of the said section 100 are repealed s. 100 (3, 4), re-enacted and the following substituted therefor:

(3) Where a corporation owns a share that is a capital Loss on share that is capital property property and receives a taxable dividend or capital dividend in respect of that share, the amount of any loss of the corporation arising from transactions with reference to the share on which the dividend was received shall, unless it is established by the corporation that,

- (a) the corporation owned the share 365 days or longer before the loss was sustained; and
- (b) the corporation did not, at the time the dividend was received, own more than 5 per cent of the issued shares of any class of the capital stock of the corporation from which the dividend was received,

be deemed to be the amount of that loss otherwise determined, minus the aggregate of all amounts received by the corporation in respect of;

- (c) taxable dividends on the share to the extent that the amounts thereof were deductible from the corporation's income for any fiscal year by virtue of this section or subsection 6 of section 138 of the *Income Tax Act* (Canada); or 1970-71, c. 63 (Can.)

- (d) capital dividends on the share.

(4) Where a corporation owns a share that is not a capital Loss on share that is not capital property property and receives a dividend in respect of that share, the amount of any loss of the corporation arising from transactions with reference to the share on which the dividend was received shall, unless it is established by the corporation that,

- (a) it owned the share 365 days or longer before the loss was sustained; and
- (b) it did not, at the time the dividend was received, own more than 5 per cent of the issued shares of any class of the capital stock of the corporation from which the dividend was received,

be deemed to be the amount of that loss otherwise determined, minus the aggregate of all amounts received by it in respect of dividends, other than capital gains dividends within the meaning given to that expression by subsection 1 of section 109, on the share.

Fair
market
value of
share that
is not
capital
property

(4a) Where a corporation owns a share that is not a capital property and receives a dividend in respect of that share, for the purpose of subsection 1 of section 15 the fair market value of the share at any particular time after the 18th day of November, 1974 shall, unless it is established by the corporation that,

- (a) it owned the share 365 days or longer before the particular time; and
- (b) it did not, at the time the dividend was received, own more than 5 per cent of the issued shares of any class of the capital stock of the corporation from which the dividend was received,

be deemed to be the aggregate of the fair market value of the share at the particular time otherwise determined and all amounts received before the particular time by it in respect of dividends, other than capital gains dividends within the meaning given to that expression by subsection 1 of section 109, on the share.

s. 100,
amended

(4) Section 100 of the said Act is amended by adding thereto the following subsection:

Rules
where
shares
exchanged

(6) Where at a particular time a share, in this subsection referred to as the "new share", has been acquired by a corporation in exchange for another share, in this subsection referred to as the "old share", by means of a transaction to which section 53, 79a, 80 or 81 applies, any reference in subsection 3 to a share shall be deemed to include a reference to the new share and the old share as though they were the same share, except that the aggregate of the amounts to be deducted from a loss otherwise determined on any new share of the corporation, in respect of dividends received by it on the share, shall be deemed to be the aggregate of,

- (a) the aggregate of amounts that would be determined under subsection 3 in respect of taxable dividends or capital dividends received by it on the new share only; and
 - (b) that proportion of the aggregate of all amounts received by it in respect of taxable dividends or capital dividends on all the old shares exchanged at the particular time that,
 - (i) the adjusted cost base to it of the new share immediately after the exchange,
- is of,
- (ii) the adjusted cost base to it of all new shares immediately after the exchange.

Subsection 4. This amendment adds provisions to establish the amount of dividends that must be deducted from the loss on sale of a share held for investment purposes, where that share was received by the corporation in exchange for a share previously held. The amendment provides for a situation not covered by section 100(3), that is, where, because of an exchange, the tax on an old share was deferred until the new share received in the exchange was sold.

SECTION 53. This amendment makes applicable certain provisions of the *Income Tax Act* (Canada) to provide for the deduction from income of certain dividends (and applicable foreign taxes) received by a corporation from its foreign affiliate.

SECTION 54. This amendment adds a new section 100*b* to the Act to allow corporations to deduct, from their income earned in Ontario, after all other deductions have been claimed, their contributions to political parties and candidates. Such deduction may not exceed \$4,000 in any fiscal year, and undeducted amounts may be carried forward to subsequent fiscal years.

53. The said Act is further amended by adding thereto the following section: s. 100a,
enacted

100a. It is hereby declared that the provisions of section 113 of the *Income Tax Act* (Canada) shall apply to this Act for the purposes of computing the taxable income for a fiscal year of a corporation resident in Canada. Deduction re
dividends
from foreign
affiliates
1970-71,
c. 63 (Can.)

54. The said Act is further amended by adding the following section: s. 100b,
enacted

100b.—(1) In computing a corporation's taxable income for a fiscal year, there may be deducted the aggregate of amounts (the aggregate of which amounts is hereafter in this subsection referred to as "the amount contributed") that are contributions for the purposes of *The Election Finances Reform Act, 1975* and that are contributed in the fiscal year, and in any previous fiscal year ending after the 12th day of February, 1975 to the extent that such contributions have not already been deducted, by the corporation to registered candidates at an election of a member or members to serve in the Assembly, to registered constituency associations or to registered parties, provided that, Election
contributions
1975, c. 12

(a) subject to subsection 3, such deduction shall not exceed the least of,

(i) the amount contributed, and

(ii) its taxable income computed without reference to this section, and

(iii) \$4,000; and

(b) payment of each amount that is included in the amount contributed is proven by filing with the Minister receipts that are signed by a recorded agent of the registered candidate, registered constituency association or registered party, as the case may be, and that contain the information prescribed to be shown on such receipts.

(2) In this section,

Interpre-
tation

(a) "recorded agent" means a person on record with the Commission on Election Contributions and Expenses as being authorized to accept contributions on behalf of a political party, constituency association or candidate registered under *The Election Finances Reform Act, 1975*;


(b) "registered candidate" with respect to an election of a member or members to serve in the Assembly, means a person who has been registered as a candidate for such election by the Commission on Election Contributions and Expenses and whose name has not been deleted from the register of candidates maintained by the Commission with respect to such election;

(c) "registered constituency association" means a registered constituency association within the meaning given to that expression by *The Election Finances Reform Act, 1975*;

(d) "registered party" means a registered party within the meaning given to that expression by *The Election Finances Reform Act, 1975*.

1975, c. 12

Corporations
to which s. 103
applicable


 (3) In respect of a corporation to which section 103 is applicable, the amount deductible under clause *a* of subsection 1 is the aggregate of,

(a) the amount which would otherwise be deducted under clause *a* of subsection 1; and

(b) that proportion of the amount determined under clause *a* that,

(i) the taxable income of the corporation that is earned in jurisdictions other than Ontario (as computed for the purposes of section 103 and without reference to this section),

is to

(ii) the amount by which the taxable income of the corporation exceeds the amount referred to in subclause i. 

s. 101 (a) (iv).
amended

55.—(1) Subclause iv of clause *a* of section 101 of the said Act is amended by striking out "and" in the eleventh line.

s. 101 (a) (v).
re-enacted

(2) Subclause v of clause *a* of the said section 101 is repealed and the following substituted therefor:

(v) proceeds of disposition that become receivable by it in the fiscal year in respect of the disposition of a property that is a Canadian resource property or that would have been such a property if the property had been

SECTION 55. These amendments to section 101 of the Act require non-resident corporations to include in income amounts receivable from the sale of Canadian resource property and profits from the sale of a timber resource property, from the sale of a right to share in the income of a partnership of which it is not a member, and from the sale of an option in respect of property in Canada.

SECTION 56. This amendment repeals the deduction previously allowed with respect to logging tax. Since *The Logging Tax Act* has been repealed, this deduction is no longer necessary.

SECTION 57. This amendment increases to \$100,000 the maximum portion of a corporation's income in respect of which it can claim the small business deduction.

SECTION 58. This provision, relating to non-resident-owned investment corporations, amends the definition of "Canadian property" to make it clear that that expression includes taxable Canadian property.

acquired by it after 1971, to the extent that those proceeds were not included in computing its income from a business carried on by it in Canada,

(vi) amounts required by subsection 1*a* of section 17 to be included in computing its income for the year in respect of dispositions of timber resource properties to the extent that those amounts were not included in computing its income from a business carried on by it in Canada,

(vii) the amount, if any, by which any amount required by subsection 1*b* of section 85 to be included in computing its income for the year as proceeds of the disposition of a right to a share of the income or loss under an agreement referred to in clause *a* of subsection 1*a* of section 85 exceeds the amount in respect of that right that would, if the corporation were liable to taxation by virtue of subsection 1 of section 2 throughout the fiscal year, be deductible under subsection 1*c* of section 85 in computing its income for the year.

(3) Clause *b* of the said section 101, as amended by the Statutes of Ontario, 1973, chapter 157, section 28, is further amended by inserting after "property" in the fifth line "or an interest therein". s. 101 (b),
amended

(4) The said section 101 is amended by adding thereto the following subsection: s. 101,
amended

(2) For the purposes of this section, a property described in subparagraphs i to ix of paragraph *b* of subsection 1 of section 115 of the *Income Tax Act* (Canada) shall be deemed to include an option in respect of such property whether or not such property is in existence. Property
deemed to
include
option
1970-71,
c. 63 (Can.)

56. Section 105 of the said Act is repealed. s. 105,
repealed

57. Subsection 2 of section 106*a* of the said Act, as enacted by the Statutes of Ontario, 1974, chapter 75, section 7, is amended by striking out "\$50,000" in the fifth line and inserting in lieu thereof "\$100,000". s. 106*a* (2),
amended

58. Clause *a* of subsection 5 of section 110 of the said Act is repealed and the following substituted therefor: s. 110 (5) (a),
re-enacted

(a) "Canadian property" means,

(i) property of a corporation that would be taxable Canadian property if at no time in the year the corporation had been resident in Canada, and

(ii) any other property not being foreign property within the meaning given to that expression by section 206 of the *Income Tax Act* (Canada).

1970-71,
c. 63 (Can.)

s. 112,
amended

59. Section 112 of the said Act is amended by adding thereto the following subsection:

Patronage
dividends

(7) For the purposes of this section, where,

(a) a person has sold or delivered a quantity of goods or products to a marketing board established by or pursuant to a law of Canada or of a province;

(b) the marketing board has sold or delivered the same quantity of goods or products of the same class, grade or quality to a corporation of which the person is a member; and

(c) the corporation has credited that person with an amount based on the quantity of goods or products of that class, grade or quality sold or delivered to it by the marketing board,

the quantity of goods or products referred to in clause *c* shall be deemed to have been sold or delivered by that person to the corporation and to have been acquired by the corporation from that person.

s. 114 (3),
re-enacted

60.—(1) Subsection 3 of section 114 of the said Act is repealed and the following substituted therefor:

Amount
paid in
respect of
member's
share deemed
paid as
interest

(3) Notwithstanding any other provisions of this Act, any amount paid or payable by a credit union to a member thereof in respect of his share in the credit union, other than any such amount paid or payable as or on account of a reduction of the paid-up capital, redemption, acquisition or cancellation by the credit union of the member's share to the extent of the paid-up capital of his share, shall be deemed to have been paid or payable, as the case may be, by the credit union as interest and, when received by the member, to have been received by him as interest.

Application
of s. 78

(3a) Subsections 2, 3 and 4 of section 78 do not apply to deem a dividend to have been paid by a corporation to any of its shareholders, or to deem any of the shareholders of a

SECTION 59. This amendment, relating to patronage dividends, provides that, where a person sells goods through a government marketing board to a co-operative or similar corporation of which he is a member, he shall be deemed to have sold the goods directly to the co-operative or similar corporation for the purpose of determining the patronage dividends paid by that corporation.

SECTION 60.—Subsections 1 and 2. These amendments, relating to credit unions, expand the existing provisions and require such corporations to report all payments which are to members in respect of shares (with certain exceptions) and in respect of a refund of interest on a loan. Such amounts must be included by the members in their income.

Subsection 3. This provision amends the definition of "credit union" by extending the sources from which the revenue can be derived and requiring that substantially all of the revenue be derived from such sources (which is more restrictive than the previous provision). In addition certain types of federations and corporations will now be recognized as credit unions.

corporation to have received a dividend on any shares of the capital stock of the corporation, if at the time the dividend would, but for this subsection, be deemed by subsection 2, 3, or 4 of section 78 to have been so paid or received, as the case may be, the corporation was a credit union.

(2) Clause *a* of subsection 5 of the said section 114 is amended <sup>s. 114 (5) (a),
amended</sup> by inserting after "union" in the sixteenth line "of the same class and for this purpose a class includes all members for whom the rates of interest payable in relation to the money borrowed are the same".

(3) Clause *b* of subsection 5 of the said section 114 is repealed <sup>s. 114 (5) (b),
re-enacted</sup> and the following substituted therefor:

(*b*) "credit union" means a corporation, association or federation incorporated or organized as a credit union or co-operative credit society if,

(i) it derived all or substantially all of its revenues from,

(A) loans made to, or cashing cheques for, members,

(B) bonds or securities of or loans to, or guaranteed by, the Government of Canada or a province, a Canadian municipality, or an agency thereof, or bonds or securities of or loans to a municipal or public body performing a function of government in Canada or an agency thereof,

(C) bonds of a corporation, commission or association not less than 90 per cent of the shares or capital of which was owned by the Government of Canada or a province or by a municipality in Canada,

(D) loans to or deposits with a bank to which the *Bank Act* (Canada) or the *Quebec Savings Banks Act* (Canada) applies, or loans to or deposits with a corporation licensed or otherwise authorized under a law of Canada or a province to carry on in Canada the business of offering to the public its services as trustee,

R.S.C. 1970,
cc. B-1, B-4

- (E) charges, fees and dues levied against members or members of members, or
- (F) loans made to or deposits with a credit union or co-operative credit society of which it is a member, or
- (ii) all or substantially all the members thereof were corporations, associations or federations,
 - (A) incorporated as credit unions or co-operative credit societies, all of which derived all or substantially all of their revenues from the sources described in subclause i or all of whose shares are owned by credit unions, co-operatives or a combination thereof,
 - (B) incorporated, organized or registered under, or governed by a law of Canada or a province with respect to co-operatives, or
 - (C) incorporated or organized for charitable purposes,

or were corporations, associations or federations no part of the income of which was payable to, or otherwise available for the personal benefit of, any shareholder or member thereof.

s. 117a,
enacted

- 61.** The said Act is further amended by adding thereto the following section:

Deemed not
to be a
private
corporation

117a. Notwithstanding any other provision of this Act, an insurance corporation, other than a life insurance corporation, that would but for this section be a private corporation shall be deemed not to be a private corporation except for the purposes of section 106a.

s. 120,
amended

- 62.** Section 120 of the said Act is amended by adding thereto the following subsection:

Property of
a trust
governed by
a revoked
plan

(9a) Where a trust governed by a revoked plan,

- (a) disposes of property to a corporation for a consideration less than the fair market value of the property at the time of the transaction, or for no consideration; or

SECTION 61. This amendment deems insurance corporations, other than life insurance corporations, which would otherwise be private corporations, to be public corporations except for the purposes of the small business deduction under section 106a. Life insurance corporations are already deemed to be public corporations.

SECTION 62. This amendment will require a corporation to include in its income any difference between the fair market value and the amount actually paid or received by it in purchasing or selling any property to a trustee of a deferred profit sharing plan, the registration of which has been revoked.

SECTION 63.—Subsection 1. This amendment increases the number of organizations to which a non-profit corporation may make gifts which will be considered as being for charitable purposes and to disallow gifts made to other non-profit corporations.

Subsection 2. This amendment allows corporations that are clubs, societies, and similar organizations, to distribute funds to members that are Canadian amateur athletic clubs without losing their tax-exempt status.

Subsections 3 and 4. This amendment requires non-profit corporations to include in their income gifts received from other non-profit corporations or from charitable trusts.

SECTION 64. In this amendment the provisions relating to instalment payments of tax are amended to accelerate the final instalment of tax, so that the final instalment will be payable three months after the end of the fiscal year in the case of small business corporations, and two months after the end of the fiscal year for any other corporation.

- (b) acquires property from a corporation for a consideration greater than the fair market value of the property at the time of the transaction,

the difference between such fair market value and the consideration, if any, shall be deemed to be an amount received by the corporation from a trustee under the plan and that amount shall be included in the corporation's income for a fiscal year.

- 63.**—(1) Subclause iii of clause *e* of subsection 1 of section 122 of the said Act is amended by adding “or” at the end of sub-subclause A, by striking out sub-subclauses B, C and D and by substituting therefor the following:

s. 122 (1) (i),
(e) (iii),
amended

(B) a gift to any donee described in clause *a* or *b* of subsection 1 of section 98,

- (2) Clause *i* of subsection 1 of the said section 122, as re-enacted by the Statutes of Ontario, 1973, chapter 42, section 9, is amended by adding at the end thereof “unless the proprietor, member or shareholder was a club, society or association the primary purpose and function of which was the promotion of amateur athletics in Canada”.

s. 122 (1) (i),
amended

- (3) Clause *b* of subsection 6 of the said section 122 is amended by inserting after “corporation” in the second line “including gifts received from a person described in clause *e* of subsection 1 or paragraph *h* of subsection 1 of section 149 of the *Income Tax Act* (Canada)”.

s. 122 (6) (b),
amended

1970-71,
c. 63 (Can.)

- (4) Subclause ii of clause *b* of subsection 6 of the said section 122 is amended by inserting after “donor” in the second line “other than a person described in clause *e* of subsection 1 or paragraph *h* of subsection 1 of section 149 of the *Income Tax Act* (Canada)” and by inserting after “person” in the fifth line “other than a person described in clause *e* of subsection 1 or paragraph *h* of subsection 1 of section 149 of the *Income Tax Act* (Canada)”.

s. 122 (6)
(b) (ii),
amended

- 64.**—(1) Subsections 2 and 3 of section 148 of the said Act are repealed and the following substituted therefor:

s. 148 (2),
repealed;
s. 148 (3),
re-enacted

- (3) Every corporation on which a tax is imposed by this Act shall pay to the Treasurer of Ontario,

Dates of
payment

- (a) on or before the fifteenth day of each of the third, fifth, seventh, ninth and eleventh months of the

fiscal year in respect of which the tax is payable and on or before the fifteenth day of the first month of the fiscal year following that in respect of which the tax is payable, an instalment equal to one-sixth of the tax payable as estimated by it at the rates for the fiscal year on,

- (i) its estimated taxable income and other subject of tax for the fiscal year, or
 - (ii) its taxable income and other subject of tax for the immediately preceding fiscal year; and
- (b) the balance, if any, of the tax payable for the fiscal year as estimated by it under subsection 2 of section 145,

- (i) on or before the last day of the third month of the fiscal year following that in respect of which the tax is payable, where an amount was deducted by virtue of section 125 of the *Income Tax Act* (Canada) in computing the tax payable by the corporation under Part 1 of that Act for the immediately preceding fiscal year, or
- (ii) on or before the last day of the second month of the fiscal year following that in respect of which the tax is payable, in any other case.

1970-71,
c. 63 (Can.)

s. 148 (4),
amended

(2) Subsection 4 of the said section 148 is amended by striking out "Notwithstanding subsections 2 and 3" in the first line and inserting in lieu thereof "Notwithstanding subsection 3" and by striking out "2 or" in the fifth line.

s. 149 (2),
amended

65. Subsection 2 of section 149 of the said Act is amended by striking out "2" in the first line.

s. 167 (1),
amended

66.—(1) Subsection 1 of section 167 of the said Act, as amended by the Statutes of Ontario, 1973, chapter 157, section 32, is further amended by striking out "1961" in the amendment of 1973 and inserting in lieu thereof "1967".

s. 167 (2),
amended

(2) Subsection 2 of the said section 167, as amended by the Statutes of Ontario, 1973, chapter 157, section 32, is further amended by striking out "1961" in the amendment of 1973 and inserting in lieu thereof "1967".

SECTION 65. This amendment is complementary to the amendments contained in section 64 of this Bill.

SECTION 66. This provision amends the lien section of the Act to provide that the lien will no longer apply to taxes, interest, penalties and other amounts imposed for fiscal years commencing prior to 1968.

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- 67.—(1) Subsections 2 and 9 of section 1, paragraph 38a of subsection 1 of section 1 of the said Act, as enacted by subsection 4 of section 1 of this Act, section 5, subsection 2 of section 8, section 13, subsections 9, 11 and 12 of section 28, section 30, subsection 1 of section 34, sections 37, 61 and 62, and subsections 1, 3 and 4 of section 63 shall be deemed to have come into force on the 1st day of January, 1974 and apply to corporations in respect of all fiscal years ending after 1973. Commence-
ment and
application
- (2) Subsections 3 and 8 of section 1, paragraph 33a of subsection 1 of section 1 of the said Act, as enacted by subsection 4 of section 1 of this Act, subsections 6 to 9 of section 6, subsection 3 of section 7, subsections 8 and 9 of section 8, section 9, subsection 2 of section 15, sections 16, 18 and 21, subsections 2 to 5 and 7 to 12 of section 22, subsections 1, 2, 4 and 5 of section 23, subsections 2, 3 and 8 of section 28, subsection 2 of section 34, subsection 1 of section 43, sections 45, 46, 47, 48, 49, 50 and 51, subsection 2 of section 52, subsection 3 of section 55, sections 58, 59 and 60, and subsection 2 of section 63 shall be deemed to have come into force on the 1st day of January, 1972 and apply to corporations in respect of all fiscal years ending after 1971. Idem
- (3) Sections 32 and 56 come into force on the day this Act receives Royal Assent. Idem
- (4) Subsection 1 of section 1 and section 12 shall be deemed to have come into force on the 1st day of January, 1975 and apply to corporations in respect of all fiscal years ending after 1974. Idem
- (5) Subsection 5 of section 1 shall be deemed to have come into force on the 7th day of May, 1974 and is applicable for the purpose of calculating the paid-up capital of a corporation at the end of its fiscal year ending in 1971 and at any time after the 6th day of May, 1974. Idem
- (6) Subsection 6 of section 1 shall be deemed to have come into force on the 7th day of April, 1975. Idem
- (7) Subsection 7 of section 1 shall be deemed to have come into force on the 1st day of January, 1972 and applies to corporations in respect of all fiscal years ending after 1971. Idem



- Idem (8) Section 2 shall be deemed to have come into force on the 7th day of May, 1974 and applies to corporations in respect of all fiscal years ending after the 6th day of May, 1974.
- Idem (9) Section 3 shall be deemed to have come into force on the 7th day of May, 1974 and applies to corporations in respect of all fiscal years ending after the 6th day of May, 1974.
- Idem (10) Subsection 1 of section 4 shall be deemed to have come into force on the 19th day of November, 1974 and applies to corporations in respect of all fiscal years ending after the 18th day of November, 1974.
- Idem (11) Subsection 2 of section 4 shall be deemed to have come into force on the 8th day of April, 1975 and applies to corporations with respect to all fiscal years that end after the 7th day of April, 1975 except that with respect to the fiscal year that ends after the 7th day of April, 1975 and that includes that day the amount to be determined under clause o of subsection 1 of section 16 of the said Act shall be that portion of any amount that becomes receivable in that fiscal year or the fair market value of any property that becomes receivable in that fiscal year that the number of days of that fiscal year that follow the 7th day of April, 1975 bears to the total number of days of that fiscal year.
- Idem (12) Subsection 3 of section 4 shall be deemed to have come into force on the 1st day of January, 1975 and applies to corporations in respect of all fiscal years ending after 1974 and, except in the case of a credit union, any interest that was not included in computing a corporation's income for a fiscal year ending before 1975 but that would have been included in subsection 3 of section 16, as enacted by subsection 3 of section 4 of this Act, had applied shall be included in computing its income for its fiscal year ending in 1975.
- Idem (13) Subsections 1 and 2 of section 6 shall be deemed to have come into force on the 7th day of May, 1974 and apply in respect of timber resource property acquired after the 6th day of May, 1974.
- Idem (14) Subsection 3 of section 6 shall be deemed to have come into force on the 7th day of May, 1974 and applies in respect of amounts that become receivable after the 6th day of May, 1974.

- (15) Subsection 4 of section 6 shall be deemed to have come ^{Idem} into force on the 1st day of January, 1972 and applies to acquisitions of property occurring after the 18th day of November, 1974 and to all fiscal years of corporations ending after 1971 in respect of the repayment on, before or after January 1, 1972 of grants, subsidies or other assistance.
- (16) Subsection 5 of section 6 and subsection 2 of section 7 ^{Idem} shall be deemed to have come into force on the 7th day of May, 1974 and apply to corporations in respect of all fiscal years ending after the 6th day of May, 1974.
- (17) Subsections 10 and 11 of section 6 shall be deemed to ^{Idem} have come into force on the 7th day of May, 1974 and apply in respect of acquisitions of property occurring after the 6th day of May, 1974.
- (18) Subsection 1 of section 7 shall be deemed to have come ^{Idem} into force on the 8th day of April, 1975 and applies to corporations with respect to all fiscal years that end after the 7th day of April, 1975 except that with respect to the fiscal year that ends after the 7th day of April, 1975 and includes that day, the amount paid or payable in the year or the fair market value of property paid in the year shall, for the purposes of clause *n* of subsection 1 of section 22 of the said Act be the aggregate of,
- (a) that portion of the amount determined under that clause as it stood prior to the 8th day of April, 1975, that the number of days of that fiscal year prior to the 8th day of April, 1975 bears to the total number of days of that fiscal year; and
 - (b) that portion of the amount determined under that clause as amended by this Act for that fiscal year that the number of days of that fiscal year that follow the 7th day of April, 1975 bears to the total number of days of that fiscal year. 
- (19) Subsection 1 of section 8 shall be deemed to have come ^{Idem} into force on the 19th day of November, 1974 and applies to sales occurring and debts arising after the 18th day of November, 1974.
- (20) Subsections 3, 4, 5, 6 and 7 of section 8 shall be deemed ^{Idem} to have come into force on the 7th day of May, 1974 and apply in respect of dispositions occurring after the 6th day of May, 1974.

- Idem (21) Section 10 shall be deemed to have come into force on the 7th day of May, 1974 and applies to sales of debts occurring after the 6th day of May, 1974.
- Idem (22) Section 11 shall be deemed to have come into force on the 7th day of May, 1974 and applies to sales occurring after the 6th day of May, 1974.
- Idem (23) Section 14 shall be deemed to have come into force on the 7th day of May, 1974 and applies to timber resource property acquired after the 6th day of May, 1974.
- Idem (24) Subsection 1 of section 15 shall be deemed to have come into force on the 7th day of May, 1974 and applies to dispositions occurring after the 6th day of May, 1974.
- Idem (25) Section 17 shall be deemed to have come into force on the 7th day of May, 1974 and applies to amounts that have become receivable after the 6th day of May, 1974.
- Idem (26) Section 19 shall be deemed to have come into force on the 7th day of May, 1974 and applies to extensions or renewals granted after the 6th day of May, 1974.
- Idem (27) Section 20 shall be deemed to have come into force on the 7th day of May, 1974 and applies to exchanges of property occurring after the 6th day of May, 1974.
- Idem (28) Subsection 1 of section 22 shall be deemed to have come into force on the 1st day of January, 1972 and applies in respect of contributions of capital occurring after 1971 in computing the adjusted cost base of a property after 1971.
- Idem (29) Subsection 6 of section 22 shall be deemed to have come into force on the 1st day of January, 1972 and applies in respect of contributions of capital occurring before the 7th day of May, 1974 in computing the adjusted cost base of property after 1971.
- Idem (30) Subsection 13 of section 22 shall be deemed to have come into force on the 19th day of November, 1974 and is applicable for the purpose of computing the adjusted cost base of a property after 1971 in respect of acquisitions of property occurring after the 18th day of November, 1974 and in respect of the repayment after 1971 of grants, subsidies or other assistance.
- Idem (31) Subsection 14 of section 22 and subsection 2 of section 27 shall be deemed to have come into force on the 7th day of May, 1974 and apply in respect of transactions occurring after the 6th day of May, 1974.

- (32) Subsection 3 of section 23 shall be deemed to have come ^{Idem} into force on the 19th day of November, 1974 and applies to dispositions of property occurring after the 18th day of November, 1974.
- (33) Sections 24 and 26 shall be deemed to have come into force ^{Idem} on the 1st day of January, 1975 and apply to corporations in respect of all fiscal years ending after 1974.
- (34) Section 25 shall be deemed to have come into force on the ^{Idem} 7th day of May, 1974 and applies in respect of dispositions occurring after the 6th day of May, 1974.
- (35) Subsection 1 of section 27 shall be deemed to have come ^{Idem} into force on the 19th day of November, 1974 and applies to corporations in respect of all fiscal years ending after the 18th day of November, 1974.
- (36) Subsections 1, 4 and 5 of section 28 shall be deemed ^{Idem} to have come into force on the 7th day of May, 1974 and apply to corporations in respect of all fiscal years ending after the 6th day of May, 1974.
- (37) Subsections 6 and 7 of section 28 shall be deemed to ^{Idem} have come into force on the 7th day of May, 1974 and apply to transactions occurring after the 6th day of May, 1974.
- (38) Subsection 10 of section 28 shall be deemed to have come ^{Idem} into force on the 1st day of January, 1974 and applies to corporations in respect of all fiscal years ending after 1973 except that it shall not apply to any right or interest in property of a trust acquired before the 19th day of November, 1974 in respect of which a deduction has been claimed in respect of a fiscal year ending before 1976 under section 63 of the said Act.
- (39) Section 29 shall be deemed to have come into force on the ^{Idem} 7th day of May, 1974 and applies in respect of appropriations, dispositions or acquisitions of property occurring after the 6th day of May, 1974.
- (40) Section 31 shall be deemed to have come into force on ^{Idem} the 7th day of May, 1974 and applies to exchanges of bonds occurring after the 6th day of May, 1974.
- (41) Section 33 shall be deemed to have come into force on ^{Idem} the 8th day of April, 1975 and applies to amounts or property paid or payable after the 7th day of April, 1975.
- (42) Section 35 shall be deemed to have come into force on ^{Idem} the 19th day of November, 1974 and applies to dividends deemed to have been paid after the 18th day of November, 1974.

- Idem (43) Section 36 shall be deemed to have come into force on the 19th day of November, 1974 and applies to payments made after the 18th day of November, 1974.
- Idem (44) Section 38 shall be deemed to have come into force on the 7th day of May, 1974 and applies to dispositions of property occurring after the 6th day of May, 1974.
- Idem (45) Section 39, except subsection 3 of section 79a of the said Act, as enacted by section 39 of this Act, shall be deemed to have come into force on the 7th day of May, 1974 and applies with respect to transactions occurring after the 6th day of May, 1974.
- Idem (46) Subsection 3 of section 79a of the said Act, as enacted by section 39 of this Act, shall be deemed to have come into force on the 1st day of January, 1972 and applies to corporations in respect of all fiscal years ending after 1971.
- Idem (47) Section 40 shall be deemed to have come into force on the 7th day of May, 1974 and applies in respect of dispositions after the 6th day of May, 1974 by a person of shares of any class of the capital stock of a corporation in the course of a reorganization of the capital of the corporation.
- Idem (48) Subsections 1 and 3 of section 41 shall be deemed to have come into force on the 1st day of January, 1972 and apply to amalgamations occurring after 1971.
- Idem (49) Subsections 2 and 4 to 15 of section 41 shall be deemed to have come into force on the 7th day of May, 1974 and apply to amalgamations occurring after the 6th day of May, 1974, except that subsection 8 of section 81 of the said Act, as enacted by subsection 15 of section 41 of this Act, shall be deemed to have come into force on the 1st day of January, 1972 and applies in respect of mergers occurring after 1971.
- Idem (50) Subsections 1 to 7 of section 42 shall be deemed to have come into force on the 7th day of May, 1974 and apply in respect of any winding up occurring after the 6th day of May, 1974, except that subclauses 1a and 1b of clause d of subsection 1 of section 82 of the said Act, as enacted by subsection 3 of section 42 of this Act, are applicable for the purpose of computing the adjusted cost base of the property after February, 1975.

- (51) Subsection 8 of section 42 shall be deemed to have come ^{Idem} into force on the 1st day of January, 1972 and applies in respect of any winding-up occurring after 1971.
- (52) Subsection 2 of section 43 shall be deemed to have come ^{Idem} into force on the 7th day of May, 1974 and applies for the purpose of computing the paid-up capital of a corporation at the end of its fiscal year ending in 1971 and at any time after the 6th day of May, 1974.
- (53) Subsections 3, 4 and 5 of section 43 shall be deemed to ^{Idem} have come into force on the 7th day of May, 1974 and are applicable for the purpose of computing paid-up capital deficiency after the 6th day of May, 1974.
- (54) Subsection 6 of section 43 shall be deemed to have come ^{Idem} into force on the 7th day of May, 1974 and is applicable in computing 1971 capital surplus on hand after the 6th day of May, 1974.
- (55) Subsection 7 of section 43 shall be deemed to have come ^{Idem} into force on the 7th day of May, 1974 and is applicable in computing paid-up capital deficiency or 1971 capital surplus on hand after the 6th day of May, 1974, except that subsection 4 of section 83 of the said Act, as enacted by subsection 7 of section 43 of this Act, shall be deemed to have come into force on the 1st day of January, 1972 and applies to corporations in respect of all fiscal years ending after 1971.
- (56) Section 44 shall be deemed to have come into force on ^{Idem} the 7th day of May, 1974 and is applicable for the purpose of computing the paid-up capital of a corporation at the end of its fiscal year ending in 1971 and at any time after the 6th day of May, 1974.
-  (57) Subsection 1 of section 52 and section 53 shall come ^{Idem} into force on the 1st day of January, 1976 and apply to corporations in respect of all fiscal years ending after 1975.
- (58) Subsections 3 and 4 of section 52 shall be deemed to ^{Idem} have come into force on the 7th day of May, 1974 and apply to losses arising after the 6th day of May, 1974, except that subsection 4a of section 100 of the said Act, as enacted by subsection 3 of section 52 of this Act, is applicable for the purpose of determining the fair market value of a share after the 18th day of November, 1974. 

- Idem (59) Section 54 shall be deemed to have come into force at 3:00 o'clock in the afternoon on the 13th day of February, 1975 and applies to corporations in respect of all fiscal years ending after February 12th, 1975.
- Idem (60) Subsections 1, 2 and 4 of section 55 shall be deemed to have come into force on the 7th day of May, 1974.
- Idem (61) Section 57 shall be deemed to have come into force on the 8th day of April, 1975 and applies to corporations in respect of all fiscal years ending after the 7th day of April, 1975, except that with respect to the fiscal year that ends after the 7th day of April, 1975 and that includes that day, the following rules apply:
- (a) determine the deduction under section 106*a* of the said Act as that section stood prior to the 8th day of April, 1975 that, but for the rules made applicable by this section, would be deductible by the corporation for that fiscal year on the assumption that that section was applicable to that fiscal year;
 - (b) determine the proportion of the amount determined under clause *a* that the number of days of the fiscal year prior to the 8th day of April, 1975 bears to the total number of days of the fiscal year;
 - (c) determine the deduction under section 106*a* of the said Act as amended by this Act that, but for the rules made applicable by this Part, would be deductible by the corporation for that fiscal year on the assumption that that section was applicable to that fiscal year.
 - (d) determine the proportion of the amount determined under clause *c* that the number of days of that fiscal year that follow the 7th day of April, 1975 bears to the total number of days of that fiscal year;
 - (e) determine the aggregate of the amounts determined under clauses *b* and *d* in respect of the corporation;
- and the aggregate determined under clause *e* is the amount that is deductible by a corporation, under section 106*a* of the said Act as amended by this Act, for its fiscal year that ends after the 7th day of April, 1975 and that includes that day.
- Idem (62) Sections 64 and 65 shall come into force on the 1st day of August, 1975, and apply to corporations in respect of all fiscal years ending after the 31st day of July, 1975.

(63) Section 66 shall be deemed to have come into force on the ^{Idem} 1st day of January, 1975.

68. This Act may be cited as *The Corporations Tax Amendment Act*, ^{Short title} 1975.

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An Act to amend
The Corporations Tax Act, 1972

1st Reading

April 7th, 1975

2nd Reading

April 24th, 1975

3rd Reading

THE HON. A. K. MEEN
Minister of Revenue

*(Reprinted as amended by the
Administration of Justice Committee)*

BILL 36

5TH SESSION, 29TH LEGISLATURE, ONTARIO
24 ELIZABETH II, 1975

An Act to amend The Corporations Tax Act, 1972

THE HON. A. K. MEEN
Minister of Revenue

TORONTO

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An Act to amend The Corporations Tax Act, 1972

HER MAJESTY, by and with the advice and consent of the Legislative Assembly of the Province of Ontario, enacts as follows:

- 1.—(1) Paragraph 6 of subsection 1 of section 1 of *The Corporations Tax Act, 1972*, being chapter 143, is repealed and the following substituted therefor: s.1 (1), par. 6,
re-enacted

6. "bank" means a bank to which the *Bank Act* (Canada) R.S.C. 1970,
c. B-1
or the *Quebec Savings Banks Act* (Canada) applies. R.S.C. 1970,
c. B-4

- (2) Subsection 1 of the said section 1, as amended by the Statutes of Ontario, 1973, chapter 157, section 1, and 1974, chapter 75, section 1, is further amended by adding thereto the following paragraph: s.1 (1),
amended

9a. "Canadian resource property" has the meaning given to that expression by section 63.

- (3) Subsection 1 of the said section 1 is further amended by adding thereto the following paragraph: s.1 (1),
amended

17a. "credit union" has the meaning given to that expression by subsection 5 of section 114.

- (4) Subsection 1 of the said section 1 is further amended by adding thereto the following paragraphs: s.1 (1),
amended

33a. "foreign affiliate", at any time, of a corporation has the meaning given to that expression under paragraph d of subsection 1 of section 95 of the *Income Tax Act* (Canada); 1970-71,
c. 63 (Can.)

.

38a. "international traffic" means in respect of a non-resident corporation carrying on the business of

transporting passengers or goods, any voyage made in the course of that business where the principal purpose of the voyage is to transport passengers or goods,

- i. from Canada to a place outside Canada,
- ii. from a place outside Canada to Canada, or
- iii. from a place outside Canada to another place outside Canada.

s. 1 (1),
amended

- (5) Subsection 1 of the said section 1 is further amended by adding thereto the following paragraph:

50a. "paid-up capital" has the meaning given to that expression by subsection 1 of section 83 but such meaning does not apply for the purposes of section 106a or Part III of this Act.

s. 1 (1),
par. 66,
re-enacted

- (6) Paragraph 66 of subsection 1 of the said section 1 is repealed and the following substituted therefor:

66. "resident in Canada" means "resident in Canada" as that term is defined in the *Income Tax Act* (Canada)

1970-71,
c. 63 (Can.)

s. 1 (1),
par. 68,
re-enacted

- (7) Paragraph 68 of subsection 1 of the said section 1 is repealed and the following substituted therefor:

68. "share" means a share or fraction thereof of the capital stock of a corporation.

s. 1 (1),
par. 76,
re-enacted

- (8) Paragraph 76 of subsection 1 of the said section 1 is repealed and the following substituted therefor:

76. "taxable Canadian property" has the meaning given to that expression by subsection 1 of section 115 of the *Income Tax Act* (Canada) except that, for the purposes of section 2 the expression "taxable Canadian property" includes,

- i. a Canadian resource property, within the meaning given to that expression by subsection 12 of section 63, or any property that would have been a Canadian resource property, within the meaning given to that expression by subsection 12 of section 63, if it had been acquired after 1971,
- ii. a timber resource property,

iii. an income interest in a trust resident in Canada, and

iv. a right to a share of income or loss under an agreement referred to in clause *a* of subsection 1*a* of section 85.

(9) Subsection 1 of the said section 1 is further amended by adding thereto the following paragraphs: ^{s. 1 (1), amended}

83*a*. "timber resource property" has the meaning given to that expression by clause *da* of subsection 17 of section 17;

83*b*. "timber royalty" includes any consideration for a right under or pursuant to which a right to cut or take timber from a timber limit in Canada is obtained or derived, to the extent that such consideration is dependent upon, or computed by reference to, the amount of timber cut or taken.

2.—(1) Clause *b* of subsection 2 of section 2 of the said Act is repealed and the following substituted therefor: ^{s. 2 (2) (b), re-enacted}

(*b*) owned real property, timber resource property or a timber limit in Ontario the income from which arose from the sale or rental thereof or is a royalty or timber royalty; or

.

(2) Clause *b* of subsection 3 of the said section 2 is repealed and the following substituted therefor: ^{s. 2 (3) (b), re-enacted}

(*b*) owned real property, timber resource property or a timber limit in Ontario the income from which arose from the sale or rental thereof or is a royalty or a timber royalty and the corporation has elected to file a return of income under Part I of the *Income Tax Act* (Canada) pursuant to section 216 of that Act; or ^{1970-71, c. 63 (Can.)}

.

3. Section 3 of the said Act is repealed and the following substituted therefor: ^{s. 3, re-enacted}

3. For the purposes of subsection 2 or 3 of section 2, a corporation "owned real property, timber resource property or a timber limit" if it had a legal, equitable or beneficial interest in the real property, timber resource property or timber limit. ^{Interpretation}

s. 16 (1) (b),
re-enacted

4.—(1) Clause *b* of subsection 1 of section 16 of the said Act is repealed and the following substituted therefor:

Amounts
receivable
in respect
of services,
etc.,
rendered

(b) any amount receivable by the corporation in respect of property sold or services rendered in the course of a business in the year, notwithstanding that the amount or any part thereof is not due until a subsequent year, unless the method adopted by the corporation for computing income from the business and accepted for the purpose of this Part does not require it to include any amount receivable in computing its income for a fiscal year unless it has been received in the year.

s. 16 (1),
amended

(2) Subsection 1 of the said section 16, as amended by the Statutes of Ontario, 1973, chapter 157, section 2, is further amended by striking out "and" at the end of clause *m*, by adding "and" at the end of clause *n* and by adding thereto the following clause:

Royalties,
etc., to be
included in
income

(o) any amount (other than an amount, referred to in clause *n* of subsection 1 of section 22, paid or payable by the corporation) receivable in the year or the fair market value of any property receivable (other than an amount of property receivable by Her Majesty in right of Canada for the use and benefit of a band or bands as defined in the *Indian Act* (Canada)) in the year by,

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- (i) Her Majesty in right of Canada or a province,
- (ii) an agent of Her Majesty in right of Canada or a province, or
- (iii) a corporation, commission or association that is controlled, directly or indirectly in any manner whatever, by Her Majesty in right of Canada or a province or by an agent of Her Majesty in right of Canada or a province,

as a royalty or an equivalent amount, tax (other than a tax or portion thereof that may reasonably be considered to be a municipal or school tax levied for the purpose of providing services in the immediate area of the property of the corporation), rental, bonus, levy or otherwise or as an amount, however described, that may reasonably be regarded as being in lieu of a royalty or an equivalent amount, tax, rental, bonus, levy or other amount, whether such royalty or equivalent amount, tax, rental,

bonus, levy or other amount is receivable pursuant to any other Act or a contract, that may reasonably be regarded as being in relation to,

(iv) the acquisition, development or ownership by a corporation of a Canadian resource property or a property that would have been a Canadian resource property if it had been acquired after 1971, or

(v) the production in Canada of,

(A) petroleum, natural gas or related hydrocarbons, or

(B) metal or industrial minerals to any stage that is not beyond the prime metal stage or its equivalent,

from an oil or gas well or mineral resource situated on property in Canada from which the corporation had, at the time of such production, a right to take or remove petroleum, natural gas or related hydrocarbons or a right to take or remove metal or industrial minerals.

(3) The said section 16 is amended by adding thereto the following subsections: s. 16.
amended

(3) Notwithstanding clause *c* of subsection 1 where the corporation is a bank, a credit union, a life insurance corporation, a trust company or any other corporation, other than a mutual fund corporation or a mortgage investment corporation, that borrows money from the public in the course of carrying on a business the principal purpose of which is the making of loans or whose principal business is the making of loans, there shall be included in computing its income from the business for a fiscal year interest accrued in respect of the year and interest receivable in the year to the extent that such interest was not included in computing the corporation's income for a previous fiscal year. Accrued
interest of
financial
corporations

(4) For the purposes of subsection 3, "trust company" means a corporation licensed or otherwise authorized under the laws of Canada or a province to carry on in Canada the business of offering to the public its services as trustee. Interpre-
tation

5. The said Act is amended by adding thereto the following section: s. 16a,
enacted

16a. Notwithstanding any other provision of this Act, where in a fiscal year a corporation receives any amount from Cash bonus
on Canada
Savings Bond

the Government of Canada in respect of a Canada Savings Bond as a cash bonus that the Government of Canada has undertaken to pay, other than any amount of interest, bonus or principal agreed at the time of the issue of the bond to be paid under the terms of the bond, the corporation shall, in computing its income for the year, include,

(a) the amount, or such portion thereof, if any, as the corporation may report as interest; and

(b) an amount equal to one-half of the amount, if any, by which,

(i) the amount received as a cash bonus,

exceeds

(ii) the portion of the amount reported as interest under clause *a*,

as a taxable capital gain for the year from the disposition of a property.

s. 17,
amended

6.—(1) Section 17 of the said Act, as amended by the Statutes of Ontario, 1973, chapter 42, section 3, is further amended by adding thereto the following subsection:

Idem

(1a) Notwithstanding subsection 1, where in a fiscal year a timber resource property of a corporation has been disposed of, there shall be included in computing its income for the year the amount, if any, by which,

(a) the proceeds of disposition thereof,

exceeds

(b) the undepreciated capital cost to it, immediately before the disposition, of depreciable property of a prescribed class in which the timber resource property was included.

s. 17 (2),
amended

(2) Subsection 2 of the said section 17 is amended:

(a) by striking out "subsection 1" in the first, ninth, nineteenth, twenty-seventh and thirty-eighth lines, and inserting in lieu thereof in each instance "subsection 1 or 1a"; and

(b) by striking out "subsection 1" in the sixth line and inserting in lieu thereof "subsections 1 and 1a".

(3) Subsection 3 of the said section 17 is repealed and the following substituted therefor: s. 17 (3),
re-enacted

(3) Where an amount that would otherwise be included in computing the income of a corporation for a fiscal year, hereinafter referred to as the "initial year", by virtue of this section is, Insurance
and com-
pensation
proceeds

- (a) an amount receivable, in respect of loss or destruction of property of a prescribed class,
 - (i) under a policy of insurance, or
 - (ii) otherwise as compensation for the property so lost or destroyed; or
- (b) an amount receivable as compensation for property of a prescribed class taken under statutory authority or as the sale price of property sold to a person by whom notice of an intention to take it under statutory authority was given,

the following rule applies,

- (c) the amount shall, to the extent that it has been used by a corporation,
 - (i) before the end of the time certified by the Minister to be a reasonable time following the initial year, if the property so lost, destroyed, taken or sold was a vessel, or
 - (ii) before the end of the second fiscal year following the initial year if the property is not property referred to in subclause i,

to acquire, as a replacement for the property referred to in clause *a* or *b*, a property, in this section referred to as "replacement property", of a prescribed class that has not been disposed of by the corporation before the time the property referred to in clause *a* or *b* was disposed of,

- (iii) subject to subclause iv, not be included in computing the income of the corporation for the initial year, and
- (iv) be deemed to be proceeds of disposition of a depreciable property of the corporation, that had a capital cost equal to the amount of those

proceeds and that was property of the same class as the replacement property, from a disposition made on the later of,

(A) the time the replacement property was acquired, or

(B) the time immediately after the time the property referred to in clause *a* or *b* was disposed of.

s. 17 (6), par. 5,
re-enacted

(4) Paragraph 5 of subsection 6 of the said section 17 is repealed and the following substituted therefor:

5. Where a corporation has received or is entitled to receive a grant, subsidy, forgivable loan, investment allowance or other assistance from a government, municipality or other public authority in respect of or for the acquisition of property, other than an amount,

i. authorized to be paid under an *Appropriation Act* (Canada) and on terms and conditions approved by the Minister in respect of scientific research expenditures incurred for the purpose of advancing and sustaining the technological capability of Canadian manufacturing or other industry, or

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ii. authorized to be paid under the *Industrial Research and Development Incentives Act* (Canada) or the *Area Development Incentives Act* (Canada) and approved by the Minister,

1965,
c. 12 (Can.)

the capital cost of the property to the corporation shall be deemed to be the amount by which the aggregate of,

iii. the capital cost thereof to the corporation, otherwise determined, and

iv. such part, if any, of the assistance as has been repaid by the corporation pursuant to an obligation to repay all or any part of that assistance,

exceeds

v. the amount of the assistance.

s. 17 (6),
amended

(5) Subsection 6 of the said section 17 is amended by adding thereto the following paragraph:

6. Notwithstanding clause *f* of subsection 17,

- i. the undepreciated capital cost referred to in subclause ii of clause *c* of subsection 1 of section 46 shall be determined after giving effect to the disposition of the former property referred to in subsection 1 of section 46, and
- ii. the undepreciated capital cost, immediately before the time determined under sub-subclause B of subclause iv of clause *c* of subsection 3, of the class of property to which the replacement property referred to in clause *c* of subsection 3 belongs shall be determined after giving effect to,
 - (A) the disposition of the former property referred to in subsection 1 of section 46, and
 - (B) the reduction, referred to in clause *b* of subsection 1 of section 46, in the capital cost of that replacement property.

- (6) Clause *a* of subsection 11 of the said section 17 is amended by inserting after “before” in the fifth line “May” and by striking out “1974” in the twenty-eighth line and inserting in lieu thereof “1975”. s. 17 (11) (a),
amended
- (7) Subsection 14 of the said section 17 is amended by striking out “expended” in the third line and inserting in lieu thereof “used”, by striking out “subclause iii of” in the third and fourth lines and by striking out “1974” in the seventh line and inserting in lieu thereof “1975”. s. 17 (14),
amended
- (8) Subsection 15 of the said section 17 is amended by striking out “1974” in the sixth line and inserting in lieu thereof “1975” and by striking out “1974” in the twenty-seventh line and inserting in lieu thereof “the 1st day of July, 1975”. s. 17 (15),
amended
- (9) Subsection 16 of the said section 17 is amended by striking out “1974” in the fifth line and in the twenty-fourth line and inserting in lieu thereof in each instance “1975”. s. 17 (16),
amended
- (10) Subsection 17 of the said section 17 is amended by adding thereto the following clause: s. 17 (17),
amended

(*da*) “timber resource property” of a corporation means,

(i) a right or licence to cut or remove timber from a limit or area in Canada, in this clause referred to as an "original right", if,

(A) that original right was acquired by the corporation, other than in the manner referred to in subclause ii, after May 6, 1974, and

(B) at the time of the acquisition of the original right,

1. the corporation may reasonably be regarded as having acquired, directly or indirectly, the right to extend or renew that original right or to acquire another such right or licence in substitution therefor, or

2. in the ordinary course of events, the corporation may reasonably expect to be able to extend or renew that original right or to acquire another such right or licence in substitution therefor, or

(ii) any right or licence owned by the corporation to cut or remove timber from a limit or area in Canada if that right or licence may reasonably be regarded,

(A) as an extension or renewal of or as one of a series of extensions or renewals of an original right of the corporation, or

(B) as having been acquired in substitution for or as one of a series of substitutions for an original right of the corporation or any renewal or extension thereof.

s. 17 (17) (f),
amended

(11) Clause *f* of subsection 17 of the said section 17 is amended by,

(a) inserting after "property" in the first and second lines of subclause ii "other than a timber resource property"; and

(b) adding thereto the following subclause:

(iia) for each disposition before that time of a timber resource property of the corporation of that class, the lesser of,

(A) the proceeds of disposition of the property, and

(B) the undepreciated capital cost to it of property of that class immediately before the disposition.

7.—(1) Clause *n* of subsection 1 of section 22 of the said Act, ^{s. 22 (1) (n), re-enacted} as enacted by the Statutes of Ontario, 1974, chapter 75, section 2, is repealed and the following substituted therefor:

(*n*) any amount paid or payable in the year or the fair ^{Royalties} market value of any property paid or payable in the year (other than an amount or property paid or payable to Her Majesty in right of Canada for the use and benefit of a band or bands as defined in the *Indian Act* (Canada)) to,

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(i) Her Majesty in right of Canada or a province,

(ii) an agent of Her Majesty in right of Canada or a province, or

(iii) a corporation, commission, or association that is controlled, directly or indirectly in any manner whatever, by Her Majesty in right of Canada or a province or by an agent of Her Majesty in right of Canada or a province,

as a royalty or an equivalent amount, tax (other than a tax or portion thereof that may reasonably be considered to be a municipal or school tax levied for the purpose of providing services in the immediate area of the property of the corporation), rental, bonus, levy or otherwise or as an amount, however described, that may reasonably be regarded as being in lieu of a royalty or an equivalent amount, tax, rental, bonus, levy or other amount (whether such royalty or equivalent amount, tax, rental, bonus, levy or other amount is paid or payable pursuant to any other Act or a contract) that may reasonably be regarded as being in relation to,

(iv) the acquisition, development or ownership of a Canadian resource property, or a property

that would have been a Canadian resource property if it had been acquired after 1971, or

(v) the production in Canada of,

(A) petroleum, natural gas or related hydrocarbons, or

(B) metal or industrial minerals, to any stage that is not beyond the prime metal stage or its equivalent,

from an oil or gas well or mineral resource situated on property in Canada from which the corporation had, at the time of such production, a right to take or remove petroleum, natural gas or related hydrocarbons or a right to take or remove metal or industrial minerals.

s. 22 (3),
re-enacted

(2) Subsection 3 of the said section 22 is repealed and the following substituted therefor:

Meaning
of certain
expressions
in sub. 2

(3) In subsection 2,

(a) "interest on borrowed money used to acquire land" includes,

(i) interest paid or payable in a year in respect of borrowed money that cannot be identified with particular land but that may nonetheless reasonably be considered, having regard to all the circumstances, as interest on borrowed money used in respect of or for the acquisition of land, and

(ii) interest paid or payable in the year by a corporation in respect of borrowed money that may reasonably be considered, having regard to all the circumstances, to have been used to assist, directly or indirectly, another person with whom the corporation does not deal at arm's length to acquire land to be used or held by that person, otherwise than as described in clause *c* or *e* or subsection 2, except where the assistance is in the form of a loan to that person and a reasonable rate of interest thereon is charged by the corporation; and

(b) "land" does not, except to the extent that it is used for the provision of parking facilities for a fee or charge, include,

- (i) any property that is a building or other structure affixed to land,
- (ii) the land subjacent to any property described in subclause i, or
- (iii) such land immediately contiguous to the land described in subclause ii that is a parking area, driveway, yard, garden or similar land that is necessary for the use of any property described in subclause i.

(3) Subsection 5 of the said section 22, as amended by the Statutes of Ontario, 1973, chapter 157, section 4, is repealed and the following substituted therefor:

s. 22 (5),
re-enacted

(5) In subsection 4, "outstanding debts to specified non-residents" of a corporation at any particular time in a fiscal year means,

Meaning
of certain
expressions
in subs. 4

(a) the aggregate of amounts each of which is an amount outstanding at that time as or on account of a debt or other obligation to pay an amount,

(i) that was payable by the corporation to a person who was, at any time in the year,

(A) a shareholder of the corporation, who, either alone or together with persons with whom the shareholder was not dealing at arm's length, owned 25 per cent or more of the issued shares of any class of the corporation and who was,

1. a person not resident in Canada,
or

2. a non-resident-owned investment corporation, or

(B) a person described in paragraph 1 or 2 of sub-subclause A who was not dealing at arm's length, with a shareholder of the corporation, if the shareholder, either alone or together with persons with whom he was not dealing

at arm's length, owned 25 per cent or more of the issued shares of any class of the corporation, and

- (ii) on which any amount in respect of interest paid or payable by the corporation is or would be, but for subsection 4, deductible in computing the corporation's income for the year,

but does not include,

- (b) where the corporation is a subsidiary of a non-resident life insurance corporation, the aggregate of amounts each of which is an amount outstanding at that time as or on account of a debt or other obligation to pay an amount to the life insurance corporation and such debt or other obligation has, by virtue of an election made under subsection 9 of section 138 of the *Income Tax Act* (Canada), been included by the life insurance corporation in its fiscal year that included the particular time as property held by it in the year in the course of carrying on an insurance business in Canada and the life insurance corporation has included the revenue therefrom in computing its income for the year from carrying on an insurance business in Canada.

1970-71,
c. 63 (Can.)

s. 24 (1) (p),
amended

- 8.—(1) Clause *p* of subsection 1 of section 24 of the said Act is amended by striking out "receivable" in the fifth line and inserting in lieu thereof "due".

s. 24 (1) (*dd*),
re-enacted

- (2) Clause *dd* of subsection 1 of the said section 24 is repealed and the following substituted therefor:

Fees paid
to investment
counsel

- (*dd*) an amount other than a commission paid by the corporation in the fiscal year to a person,

- (i) for advice as to the advisability of purchasing or selling a specific share or security of the corporation, or
- (ii) for services in respect of the administration or management of shares or securities of the corporation,

if that person's principal business,

- (iii) is advising others as to the advisability of purchasing or selling specific shares or securities, or

(iv) includes the provision of services in respect of the administration or management of shares or securities.

(3) Subsection 5 of the said section 24 is amended by inserting after "property" in the second line "other than a timber resource property". s. 24 (5),
amended

(4) The said section 24, as amended by the Statutes of Ontario, 1973, chapter 42, section 5, 1973, chapter 157, section 5 and 1974, chapter 75, section 3, is further amended by adding thereto the following subsection: s. 24,
amended

(5a) Where an amount that is owing to a corporation as or on account of the proceeds of disposition of a timber resource property of the corporation is established by it to have become a bad debt in a fiscal year, the amount so owing to the corporation may be deducted in computing its income for the fiscal year. Idem

(5) Subsection 6 of the said section 24 is amended by inserting after "property" in the first line "other than a timber resource property". s. 24 (6),
amended

(6) The said section 24 is further amended by adding thereto the following subsection: s. 24,
amended

(6a) Where a timber resource property of a corporation has, in a fiscal year, been disposed of to a person with whom the corporation was dealing at arm's length, and the proceeds of disposition include an agreement for sale of or mortgage or hypothec on land that the corporation has, in a subsequent fiscal year, sold to a person with whom it was dealing at arm's length, there may be deducted in computing the income of the corporation for the subsequent fiscal year the amount, if any, by which the principal amount of the agreement for sale, mortgage or hypothec outstanding at the time of the sale exceeds the consideration paid by the purchaser to the corporation for the agreement for sale, mortgage or hypothec. Idem

(7) Subsection 9 of the said section 24 is repealed and the following substituted therefor: s. 24 (9),
re-enacted

(9) Clause *p* of subsection 1 does not apply to allow a deduction in computing the income of a corporation for a fiscal year from a business in respect of a property sold in the course of the business if the corporation, at the end of the fiscal year or at any time in the immediately following fiscal year, No
deduction in
respect of
property in
certain cir-
cumstances

(a) was exempt from tax under any provision of this Part; or

(b) ceased to have a permanent establishment in Canada.

s. 24 (10),
amended

(8) Subsection 10 of the said section 24 is amended by inserting after "the" in the sixth line "nine".

s. 24,
amended

(9) The said section 24 is further amended by adding thereto the following subsection:

Convention
expenses

(10a) Notwithstanding clause *b* of subsection 1 of section 22, there may be deducted in computing the income of a corporation for a fiscal year from a business an amount paid by the corporation in the fiscal year as or on account of expenses incurred by an employee or officer of the corporation in attending, in connection with the business, not more than two conventions held during the year by a business or professional organization at a location that may reasonably be regarded as consistent with the territorial scope of that organization.

s. 25 (2),
amended

9.—(1) Subsection 2 of section 25 of the said Act is amended by inserting after "development" in the second and third lines and in the fourth line "or the acquisition of property" and by striking out "and" in the fourth line and inserting in lieu thereof "or".

s. 25 (2) (a),
amended

(2) Clause *a* of subsection 2 of the said section 25 is amended by striking out "and" in the twelfth line and inserting in lieu thereof "or".

s. 25 (2) (b),
amended

(3) Clause *b* of subsection 2 of the said section 25 is amended by striking out "exploration, prospecting and development expenses" in the third line and inserting in lieu thereof "Canadian exploration and development expenses as defined in section 63".

s. 26 (2),
amended

10. Subsection 2 of section 26 of the said Act is amended by inserting after "shall", in the fourth line "subject to subsection 1 of section 66".

s. 27 (2),
repealed

11. Subsection 2 of section 27 of the said Act is repealed.

s. 35 (1) (a),
re-enacted

12.—(1) Clause *a* of subsection 1 of section 35 of the said Act is repealed and the following substituted therefor:

(a) the aggregate of,

(i) $1\frac{1}{2}$ per cent of the lesser of,

(A) the aggregate of,

1. each amount outstanding at the end of the fiscal year as or on account of the amortized cost of loans made by the corporation on the security of a mortgage, hypothec or agreement for sale of real property, or as or on account of the amortized cost of any such mortgage, hypothec or agreement for sale purchased by the corporation,
2. each amount due and unpaid at the end of the fiscal year as or on account of interest payable to the corporation under a mortgage, hypothec or agreement for sale of real property,
3. each amount that has been taken into account in computing the income of the corporation for the fiscal year as or on account of the value of real property of the corporation that was included in the inventory of the corporation at the end of the year and that was acquired, by foreclosure or otherwise, after default made under a mortgage, hypothec or agreement for sale of real property, otherwise than as or on account of the value of real property in respect of which any amount for the year has been included under paragraph 1 or 2, and
4. where the corporation is licensed or otherwise authorized under the laws of Canada or a province to carry on in Canada the business of offering to the public its services as trustee, each amount outstanding at the end of the fiscal year as or on ac-

count of the amortized cost of a bond or debenture (other than a bond or debenture that matures within one year after that time) owned by the corporation at that time and held by it in respect of money received by it in trust for investment subject to a guarantee by it in respect of the repayment of the principal or the payment of interest, or both, and each amount due and unpaid as or on account of interest payable in respect of such bond or debenture to the corporation, and

(B) \$2,000,000,000, and

- (ii) 1 per cent of the amount, if any, by which the aggregate referred to in sub-subclause A of subclause i exceeds the amount referred to in sub-subclause B of subclause i; and

s. 35,
amended

- (2) The said section 35 is amended by adding thereto the following subsection:

Interpre-
tation

- (3) In this section, "amortized cost" of a bond, debenture, mortgage, hypothec or agreement for sale at any time means the amount, if any, by which the aggregate of,

- (a) the cost to the corporation of acquiring the bond, debenture, mortgage, hypothec or agreement for sale; and

- (b) the portion of the amount, if any, by which,

- (i) the principal amount of the bond, debenture, mortgage, hypothec or agreement for sale at the time it was acquired by the corporation,

exceeds

- (ii) the cost thereof to the corporation of acquiring it,

that was included in computing the income of the corporation for any fiscal year ending at or before that time,

exceeds the aggregate of,

(c) the portion of the amount, if any, by which,

(i) the cost to the corporation of acquiring the bond, debenture, mortgage, hypothec or agreement for sale,

exceeds

(ii) the principal amount thereof at the time it was acquired by the corporation,

that was deducted in computing the income of the corporation for any fiscal year ending at or before that time; and

(d) the aggregate of all amounts that, before that time, the corporation became entitled to receive as or on account or in lieu of payment of or in satisfaction of the principal amount of the bond, debenture, mortgage, hypothec or agreement for sale.

13.—(1) Clause *a* of subsection 1 of section 39 of the said Act is amended by striking out “all expenditures of a current nature made in Canada in the fiscal year” in the first and second lines and inserting in lieu thereof “such amounts as may be claimed by the corporation not exceeding all expenditures of a current nature made in Canada by the corporation in the fiscal year or in any previous fiscal year ending after 1973”. s. 39 (1) (a),
amended

(2) Subsection 1 of section 39 is amended by striking out all that portion thereof following subclause ii of clause *b* and inserting in lieu thereof the following: s. 39 (1),
amended

(c) such amounts as may be claimed by the corporation not exceeding all expenditures in the fiscal year or in any previous fiscal year ending after 1973 by way of repayment of amounts paid to the corporation under an *Appropriation Act* (Canada) and on terms and conditions approved by the Minister in respect of scientific research expenditures incurred for the purpose of advancing or sustaining the technological capability of Canadian manufacturing or other industry,

exceeds

- (d) the aggregate of all amounts paid to the corporation in the fiscal year or in any previous fiscal year ending after 1973 under an *Appropriation Act* (Canada) and on terms and conditions described in clause c,

to the extent that such expenditures were not deducted in computing the income of the corporation for any previous fiscal year.

s. 41 (1) (a),
amended

- 14.** Clause *a* of subsection 1 of section 41 of the said Act is amended by striking out "or" at the end of subclause ii, by striking out "and" at the end of subclause iii and inserting in lieu thereof "or" and by adding thereto the following subclause:

(iv) a timber resource property; and

s. 42 (2) (a),
re-enacted

- 15.—(1)** Clause *a* of subsection 2 of section 42 of the said Act is repealed and the following substituted therefor:

(a) subclause iii of clause *a* of subsection 1 does not apply to permit a corporation to claim any amount thereunder in computing a gain for a fiscal year if,

(i) the corporation, at the end of the fiscal year or at any time in the immediately following fiscal year, ceased to have a permanent establishment in Canada or was exempt from tax under any provision of this Part, or

(ii) the purchaser of the property sold is a corporation that, immediately after the sale,

(A) was controlled directly or indirectly by the corporation,

(B) was controlled directly or indirectly by a person or group of persons by whom the corporation was controlled directly or indirectly, or

(C) controlled the corporation directly or indirectly.

s. 42 (3) (b),
re-enacted

- (2) Clause *b* of subsection 3 of the said section 42 is repealed and the following substituted therefor:

(b) the aggregate of,

- (i) the cost to the corporation of the property determined for the purpose of computing the adjusted cost base to it of that property at that time, and
- (ii) all amounts required by subsection 1 of section 55 to be added to the cost to the corporation of the property in computing the adjusted cost base to it of that property at that time,

16. Section 45 of the said Act is amended by inserting after ^{s. 45,} "gain" in the first line "or loss". ^{amended}

17. Section 46 of the said Act is repealed and the following ^{s. 46,} substituted therefor: ^{re-enacted}

46.—(1) Where in a fiscal year an amount has become ^{Deferral of} receivable, as described in subsection 2, by a corporation as ^{gain on} proceeds of disposition described in subclause iii or iv of ^{involuntary} clause *d* of subsection 17 of section 17 or subclause iii or ^{disposition} iv of clause *i* of section 56 of any capital property, in this section referred to as its "former property", and, before the end of the second fiscal year following the fiscal year in which such amount became receivable, the corporation has acquired a capital property, in this section referred to as its "replacement property", as a replacement for the former property and the replacement property has not been disposed of by the corporation prior to the time it disposed of the former property, notwithstanding subsection 1 of section 42,

(a) the gain, if any, from the disposition of the former property is the lesser of,

(i) the gain therefrom otherwise determined, and

(ii) the amount, if any, by which the proceeds of disposition of the former property exceed the cost, or in the case of depreciable property the capital cost, to the corporation, determined without reference to clause *b*, of the replacement property;

(b) the cost, or in the case of depreciable property the capital cost, to the corporation of the replacement property, at any time after the time it disposed of the former property, shall be deemed to be the cost, or in the case of depreciable property the

capital cost, to the corporation of the replacement property otherwise determined, minus the amount, if any, by which the gain described in subclause i of clause *a* exceeds the amount, if any, determined under subclause ii of clause *a*; and

- (c) where the replacement property was depreciable property of a prescribed class and that property was acquired by the corporation prior to the time it disposed of the former property, the amount, if any, by which,

- (i) the reduction in the capital cost to it of the replacement property by virtue of clause *b*,

exceeds

- (ii) the undepreciated capital cost to the corporation of depreciable property of the class to which the replacement property belongs, immediately before the reduction in the capital cost referred to in subclause i,

shall be included in computing the income of the corporation for the fiscal year in which the former property was disposed of and shall, for the purposes of subsection 2 of section 17 be deemed to have been so included by virtue of subsection 1 of section 17 in respect of a disposition of depreciable property of the class to which the replacement property belongs.

Idem

(2) For the purposes of this Act, the day on which a corporation has disposed of a property, the proceeds of disposition from which are described in subclause iii or iv of clause *d* of subsection 17 of section 17 or subclause iii or iv of clause *i* of section 56, and the day on which an amount has become receivable by that corporation as proceeds of disposition of such a property shall be deemed to be the earliest of,

- (a) the day the corporation has agreed to an amount as full compensation to it for the property lost destroyed, taken or sold;
- (b) where a claim, suit, appeal or other proceeding has been taken before one or more tribunals or court of competent jurisdiction, the day on which the corporation's compensation for the property is finally determined by such tribunals or courts;

- (c) where a claim, suit, appeal or other proceeding, referred to in clause *b* has not been taken before a tribunal or court of competent jurisdiction within two years of the loss, destruction or taking of the property, the day that is two years following the day of the loss, destruction or taking;
- (d) the day on which the corporation is deemed by section 50 to have disposed of the property; and
- (e) where the corporation is not a subsidiary corporation referred to in subsection 1 of section 82, the day immediately before the winding up of the corporation,

and the corporation shall be deemed to have owned the property continuously until the day so determined.

18. Subsection 2 of section 47 of the said Act is amended by ^{s. 47 (2),} ^{amended} inserting after "where" in the first line "subclause i of".

19. Section 51 of the said Act, as amended by the Statutes of ^{s. 51,} ^{amended} Ontario, 1973, chapter 157, section 11, is further amended by adding thereto the following subsection:

(5) Where a corporation has granted an option, in this ^{Idem} subsection referred to as the "original option", to which subsection 1 or 2 applies, and has granted one or more extensions or renewals of that original option,

- (a) for the purposes of subsections 1 and 2, the granting of each extension or renewal shall be deemed to be the granting of an option at the time the extension or renewal is granted;
- (b) for the purposes of subsections 2, 3 and 4 and sub-subclause D of subclause ii of clause *c* of section 56, the original option and each extension or renewal thereof shall be deemed to be the same option; and
- (c) subsection 4 shall be read as if the fiscal year in which the original option was granted and each fiscal year in which any extension or renewal thereof was granted were all initial fiscal years.

20. Section 53 of the said Act, as amended by the Statutes of ^{s. 53,} ^{re-enacted} Ontario, 1973, chapter 157, section 12, is repealed and the following substituted therefor:

Convertible
properties

53. Where shares of one class of the capital stock of a corporation have, after the 6th day of May, 1974, been acquired by a person in exchange for a capital property of the person that was a share, bond, debenture or note of the corporation, in this section referred to as a "convertible property", the terms of which conferred upon the holder the right to make the exchange and no consideration was received by the person for the convertible property other than shares of that class,

- (a) the exchange shall be deemed not to have been a disposition of property; and
- (b) the cost to the person of the shares shall be deemed to be the adjusted cost base to him of the convertible property immediately before the exchange.

s. 54 (1),
amended

21.—(1) Subsection 1 of section 54 of the said Act is amended by inserting after "1971" in the second line "(other than property acquired as described in subsection 2, 3 or 6)".

s. 54 (1a),
amended

(2) Subsection 1a of the said section 54, as enacted by the Statutes of Ontario, 1973, chapter 157, section 13, is amended by inserting after "1971" in the third line "(other than property acquired as described in subsection 2, 3 or 6)".

s. 55 (1) (c),
amended

22.—(1) Clause *c* of subsection 1 of section 55 of the said Act is amended by striking out "loan" in the fifth line and inserting in lieu thereof "a loan or, subject to subsection 1a, a disposition of property in respect of which the corporation and that other corporation have made an election under section 79".

s. 55 (1),
amended

(2) Subsection 1 of the said section 55, as amended by the Statutes of Ontario, 1973, chapter 157, section 14, is further amended by adding thereto the following clauses

- (ca) where the property is a share of the capital stock of a foreign affiliate of the corporation, any amount required by paragraph *a* of subsection 1 of section 92 of the *Income Tax Act* (Canada) to be added in computing the adjusted cost base to it of the share
- (cb) where the property is a capital interest of the corporation in a trust to which paragraph *d* of subsection 1 of section 94 of the *Income Tax Act* (Canada) applies, any amount required by paragraph *a* of subsection 5 of section 94 of that Act

1970-71, c. 63
(Can.)

to be added in computing the adjusted cost base to it of the interest.

- (3) Subclause i of clause *d* of subsection 1 of the said section 55 is amended by inserting after "share" in the fourth line, "other than a share under an agreement referred to in subsection 1*a* of section 85," <sup>s. 55 (1) (d) (i),
amended</sup>

- (4) Sub-subclause B of subclause i of clause *d* of subsection 1 of the said section 55 is repealed and the following <sup>s. 55 (1)
(d) (i) (B),
re-enacted</sup> substituted therefor:

(B) clause *b* of subsection 1 of section 31*a*,
clause *b* of subsection 2 of section 31*a*,
clause *h* of this subsection, section 57
and subsection 2 of section 75.

- (5) Clause *d* of subsection 1 of the said section 55 is amended <sup>s. 55 (1) (d),
amended</sup> by striking out "and" at the end of subclause iii, by adding "and" at the end of subclause iv and by adding thereto the following subclauses:

(v) the corporation's share, other than a share under an agreement referred to in subsection 1*a* of section 85, of the amount, if any, by which,

(A) any proceeds of disposition that become receivable by the partnership in respect of the disposition after 1971 of a property owned by the partnership on the 31st day of December, 1971 that is a property referred to in subsection 3 of section 59,

exceeds

(B) the relevant percentage as defined in subsection 4 of section 59 of the proceeds of disposition described in sub-subclause A, and

(vi) any amount deemed by clause *c* of subsection 1 of section 87*a* to be a gain of the corporation for a fiscal year from a disposition before that time of the property.

- (6) Section 55 of the said Act, as amended by the Statutes <sup>s. 55,
amended</sup> of Ontario 1973, chapter 157, section 14, is further amended by adding thereto the following subsection:

Deemed
contribution
of capital

(1a) For the purposes of clause *c* of subsection 1, where there has been a disposition of property before the 7th day of May, 1974, and,

- (a) the corporation and the other corporation referred to in that clause have made an election under section 79 in respect of that property; and
- (b) the consideration received by the corporation for the property did not include shares of the capital stock of the other corporation,

the disposition of property shall be deemed to be a contribution of capital equal to the amount, if any, by which,

- (c) the amount that the corporation and the other corporation have agreed upon in the election,

exceeds

- (d) the fair market value at the time of the disposition of any consideration received by the corporation for the property so disposed of.

s. 55 (2),
amended

- (7) Subsection 2 of the said section 55, as amended by the Statutes of Ontario, 1973, chapter 157, section 14, is further amended by adding thereto the following clauses:

- (aa) where the property is a share of the capital stock of another corporation not resident in Canada, any amount required by paragraph *d* of subsection 4 of section 80.1 of the *Income Tax Act* (Canada) or section 92 of that Act to be deducted in computing the adjusted cost base to the corporation of the share;

1970-71,
c. 63 (Can.)

- (ab) where the property is a capital interest of the corporation in a trust to which paragraph *d* of subsection 1 of section 94 of the *Income Tax Act* (Canada) applies, any amount required by paragraph *b* of subsection 5 of section 94 of that Act to be deducted in computing the adjusted cost base to it of the interest.

s. 55 (2) (b) (1),
amended

- (8) Subclause *i* of clause *b* of subsection 2 of the said section 55 is amended by inserting after "share" in the fourth line "(other than a share under an agreement referred to in subsection 1a of section 85)".

s. 55 (2) (b) (11),
amended

- (9) Subclause *ii* of clause *b* of subsection 2 of the said section 55 is amended by striking out all that portion

immediately preceding sub-subclause B and inserting in lieu thereof the following:

- (ii) an amount in respect of each fiscal year of the partnership ending after 1971 and before that time, other than a fiscal year after the fiscal year in which the corporation ceased to be a member of the partnership, equal to the corporation's share of the aggregate of,

- (A) amounts that, but for clause *d* of subsection 1 of section 85, would be deductible in computing the income of the partnership for the fiscal year by virtue of the provisions of *The Corporations Tax Application Rules, 1972* relating to Canadian exploration and development expenses, and

- (10) Subclause iv of clause *b* of subsection 2 of the said section 55 is amended by inserting after "share" in the fourth line "(other than a share under an agreement referred to in subsection 1*a* of section 85)". s. 55 (2) (b) (iv),
amended

- (11) Subsection 2 of the said section 55 is further amended by adding thereto the following clause: s. 55 (2),
amended

- (*ea*) where the property is a share of the capital stock of a joint exploration corporation (hereafter in this clause referred to as the "company") resident in Canada and the corporation has, after 1971, made a contribution of capital to the company otherwise than by way of a loan, which contribution was included in computing the adjusted cost base of the property by virtue of clause *c* of subsection 1, such portion of the contribution as may reasonably be considered to be part of an agreed portion, within the meaning given to that expression by clause *a* of subsection 12 of section 63, of the company's Canadian exploration and development expenses.

- (12) Clauses *h* and *i* of subsection 2 of the said section 55 are repealed and the following substituted therefor: s. 55 (2) (h, i),
re-enacted

- (*h*) where the property is a capital interest in a trust, other than a unit trust, not resident in Canada

that was purchased after 1971 by the corporation from a non-resident person at a time when the fair market value of such of the trust property as was,

- (i) a Canadian resource property,
- (ii) property that would have been a Canadian resource property if it had been acquired after 1971,
- (iii) an income interest in a trust resident in Canada,
- (iv) taxable Canadian property, or
- (v) a timber resource property,

was not less than 50 per cent of the aggregate of,

- (vi) the fair market value of all the trust property, and
- (vii) the amount of any money of the trust on hand,

that proportion of the amount, if any, by which,

- (viii) the fair market value at that time of such of the trust property as was property described in subclauses i to v,

exceeds

- (ix) the aggregate of the adjusted cost bases to the trust at that time of such of the trust properties as were properties described in subclauses i to v,

that the fair market value at that time of the interest is of the fair market value at that time of all capital interests in the trust;

- (i) where the property is a unit of a unit trust not resident in Canada that was purchased after 1971 by the corporation from a non-resident person at a time when the fair market value of such of the trust property as was,

- (i) a Canadian resource property,

- (ii) property that would have been a Canadian resource property if it had been acquired after 1971,
 - (iii) an income interest in a trust resident in Canada,
 - (iv) taxable Canadian property, or
 - (v) a timber resource property,
- was not less than 50 per cent of the aggregate of,
- (vi) the fair market value of all the trust property, and
 - (vii) the amount of any money of the trust on hand,
- that proportion of the amount, if any, by which,
- (viii) the fair market value at that time of such of the trust property as was property described in subclauses i to v,

exceeds

- (ix) the aggregate of the adjusted cost bases to the trust at that time of such of the trust properties as were properties described in subclauses i to v,

that the fair market value at that time of the unit is of the fair market value at that time of all of the issued units of the trust.

- (13) Clause *j* of subsection 2 of the said section 55 is repealed s. 55 (2) (*j*), re-enacted and the following substituted therefor:

- (*j*) where the property was acquired by the corporation after 1971, the amount, if any, by which,
 - (i) the amount of any assistance which it has received or is entitled to receive before that time from a government, municipality or other public authority, in respect of, or for the acquisition of, the property, whether as a grant, subsidy, forgivable loan, investment allowance or as any other form of assistance other than,

(A) an amount authorized to be paid under an *Appropriation Act* (Canada) and on terms and conditions approved by the Minister in respect of scientific research expenditures incurred for the purpose of advancing and sustaining the technological capability of Canadian manufacturing or other industry, or

(B) an amount deducted as an allowance under section 62,

exceeds

(ii) such part, if any, of the assistance referred to in subclause i as has been repaid before that time by the corporation pursuant to an obligation to repay all or any part of that assistance.

s. 55 (2),
amended

(14) Subsection 2 of the said section 55 is further amended by striking out "and" at the end of clause *l*, by adding "and" at the end of clause *m* and by adding thereto the following clause:

(n) where the property is a foreign resource property, any amount that has become receivable by the corporation at a particular time in a fiscal year as the result of a transaction that occurred after the 6th day of May, 1974, in which the consideration given by the corporation for the amount was property or services, the original cost of which may reasonably be regarded as having been foreign exploration and development expenses of the corporation, or would have been so regarded if they had been incurred by it after 1971.

s. 56 (c) (iii),
amended

23.—(1) Subclause iii of clause *c* of section 56 of the said Act is amended by striking out "clause *v*" in the fourth line and inserting in lieu thereof "subclause *v*".

s. 56 (e),
amended

(2) Clause *e* of the said section 56 is amended by adding "and" at the end of subclause iii and by adding thereto the following subclause:

(iv) any annual payment made by the corporation for the preservation of a foreign resource property or property that would have been a foreign resource property if it had been acquired by the corporation after 1971.

- (3) Clause *i* of the said section 56 is amended by striking out all that portion following subclause viii and inserting in lieu thereof the following:

but notwithstanding any other provision of this Part, does not include,

- (ix) any amount that would otherwise be proceeds of disposition of a share to the extent that such amount is deemed by subsection 2 or 3 of section 78 to be a dividend, or
 - (x) any amount that would otherwise be proceeds of disposition of a debt owing to a corporation to the extent that such amount,
 - (A) is deemed by subsection 1 of section 78*a* to be a dividend received by the corporation, and
 - (B) is a taxable dividend; and
- (4) Subclause ii of clause *j* of the said section 56 is repealed and the following substituted therefor:
- (ii) at the end of the period referred to in subclause i, the person or the corporation controlled by him, as the case may be, owned in any manner whatever the substituted property,
- (5) Subclause iii of clause *j* of the said section 56 is amended by inserting after "section 50" in the first line "section 52 or subsection 1 of section 47".

24. Clause *f* of subsection 1 of section 58 of the said Act is repealed and the following substituted therefor:

- (f) amounts received by the corporation in the fiscal year as legal costs awarded to it by a court on an appeal in relation to,
 - (i) an assessment of tax, interest or penalties under this Act or the *Income Tax Act* (Canada), or

1970-71-72,
c. 48 (Can.)

- (ii) a decision of the Unemployment Insurance Commission, a board of referees or an umpire under the *Unemployment Insurance Act, 1971* (Canada),

if with respect to that assessment or decision, as the case may be, an amount has been deducted or may be deductible under clause *b* of subsection 1 of section 60 in computing its income.

s. 59 (1),
amended

- 25.**—(1) Subsection 1 of section 59 of the said Act is amended by striking out “in a fiscal year” in the first line and by striking out the five lines immediately preceding subsection 2 and inserting in lieu thereof “the corporation’s proceeds of disposition therefrom shall be included in computing the corporation’s income for the fiscal year, to the extent that the proceeds become receivable in that year”.

s. 59 (3),
re-enacted

- (2) Subsection 3 of the said section 59 is repealed and the following substituted therefor:

Disposition
of resource
property
acquired
before 1972

- (3) Where a corporation has made a disposition of property owned, or deemed to have been owned, by it on the 31st day of December, 1971 and thereafter without interruption until the date of disposition that is property described in any of subclauses i to vi of clause *c* of subsection 12 of section 63 and is not property described in clause *b* of subsection 1, the following rules apply,

- (a) the relevant percentage of the corporation’s proceeds of disposition therefrom shall be included in computing the corporation’s income for the fiscal year to the extent that the proceeds become receivable; and
- (b) where the corporation and the person who acquired the property were not dealing with each other at arm’s length, for the purposes of this section and section 63,
 - (i) the cost to that person of the property shall be deemed to be the amount included in the corporation’s income by virtue of clause *a* in respect of the disposition by the corporation of the property, and
 - (ii) when that person subsequently disposes of the property or any right or interest therein, that person shall be deemed to have owned

the property on the 31st day of December, 1971 and thereafter without interruption until the disposition thereof.

- (3) Subsection 4 of the said section 59 is amended by ^{s. 59 (4), amended} striking out "clauses *b* and *c* of subsection 3" in the first line and inserting in lieu thereof "this section" and by striking out "any amount receivable as consideration for the" in the second and third lines and inserting in lieu thereof "proceeds of".

- (4) Subsection 5 of the said section 59 is repealed and the ^{s. 59 (5), re-enacted} following substituted therefor:

(5) In this section, "disposition" and "proceeds of disposition" have the meanings given to those expressions by ^{"disposition" and "proceeds of disposition"} section 56.

- 26.** Clause *b* of subsection 1 of section 60 of the said Act is ^{s. 60 (1) (b), re-enacted} repealed and the following substituted therefor:

(b) amounts paid by the corporation in the fiscal year ^{Expenses of objection or appeal} in respect of fees or expenses incurred in preparing, instituting or prosecuting an objection to, or an appeal in relation to,

(i) an assessment of tax, interest or penalties under this Act or the *Income Tax Act* ^{1970-71, c. 63 (Can.)} (Canada), or

(ii) a decision of the Unemployment Insurance Commission, a board of referees or an umpire under the *Unemployment Insurance Act*, ^{1970-71-72, c. 48 (Can.)} 1971 (Canada).

- 27.—**(1) Subsection 1 of section 61 of the said Act is amended by ^{s. 61 (1), amended} striking out "receivable" in the thirteenth line and in the fifteenth line and inserting in lieu thereof in each instance "due".

- (2) Clause *a* of subsection 1 of the said section 61 is amended ^{s. 61 (1) (a), amended} by inserting after "59" in the first line "or clause *a* of subsection 10*b* of section 63".

- 28.—**(1) Subsection 2 of section 63 of the said Act is amended by ^{s. 63 (2), amended} inserting after "year" in the ninth line "and before the 7th day of May, 1974".

- (2) Clause *b* of subsection 3*a* of the said section 63, as ^{s. 63 (3*a*) (b), amended} enacted by the Statutes of Ontario, 1974, chapter 75,

section 5, is amended by striking out "section" in the fourth line and inserting in lieu thereof "subsection".

s. 63 (3a)
(b) (ii),
amended

- (3) Subclause ii of clause *b* of subsection 3a of the said section 63 is amended by striking out "section 100" in the second line and inserting in lieu thereof "sections 100 and 100a".

s. 63 (5),
amended

- (4) Subsection 5 of the said section 63 is amended by striking out "acquired from another principal-business corporation" in the third and fourth lines and inserting in lieu thereof "acquired, by purchase or otherwise, including an acquisition as the result of an amalgamation described in subsection 1 of section 81, from another principal-business corporation".

s. 63 (6),
amended

- (5) Subsection 6 of the said section 63 is amended by striking out "acquired from a corporation" in the third line and inserting in lieu thereof "acquired by purchase or otherwise, including an acquisition as a result of an amalgamation described in subsection 1 of section 81, from another corporation".

s. 63 (10),
re-enacted

- (6) Subsection 10 of the said section 63, as amended by the Statutes of Ontario 1974, chapter 75, section 5, is repealed and the following substituted therefor:

Limitation

(10) Except as otherwise provided in this section, where a corporation has incurred an outlay or expense in respect of which a deduction from income is authorized under more than one provision of this section, the corporation is not entitled to make the deduction under more than one provision but is entitled to select the provision under which to make the deduction.

s. 63,
amended

- (7) The said section 63, as amended by the Statutes of Ontario, 1973, chapter 157, section 17, and 1974, chapter 75, section 5, is further amended by adding thereto the following subsection:

Unitized
oil or gas
field in
Canada

(10b) Where, pursuant to an agreement between a corporation and another person to unitize an oil or gas field in Canada, an amount has become receivable by the corporation at a particular time after the 6th day of May, 1974 from that other person in respect of Canadian exploration and development expenses incurred by the corporation, or expenses that would have been Canadian exploration and development expenses if they had been incurred by it after 1971, in respect of that field or any part thereof, the following rules apply,

- (a) there shall, at that time, be included in computing the corporation's income for the fiscal year the amount that became receivable by it; and
 - (b) there shall, at that time, be included by the other person, where that person is a corporation, in its drilling or exploration expense the amount that became payable by that corporation.
- (8) Subclause i of clause *a* of subsection 12 of the said section 63 is amended by striking out "iii" in the first line and inserting in lieu thereof "ii". s. 63 (12) (a) (i),
amended
- (9) Clause *b* of subsection 12 of the said section 63, as amended by the Statutes of Ontario, 1973, chapter 157, section 17, is further amended by striking out "and" at the end of subclause iv, by inserting "and" at the end of subclause v and by adding thereto the following subclause: s. 63 (12) (b),
amended
- (va) any annual payment made by the corporation for the preservation of a Canadian resource property or property that would have been a Canadian resource property if it had been acquired by the corporation after 1971,
-
- (10) Subclause vi of clause *c* of subsection 12 of the said section 63 is repealed and the following substituted therefor: s. 63 (12)
(c) (vi),
re-enacted
- (vi) any right to or interest in any property, other than property of a trust, described in any of subclauses i to v, including a right to receive proceeds of disposition in respect of a disposition thereof.
- (11) Clause *d* of subsection 12 of the said section 63 is repealed and the following substituted therefor: s. 63 (12) (d),
re-enacted
- (d) "drilling or exploration expense" incurred on or in respect of exploring or drilling for petroleum or natural gas includes any expense incurred on or in respect of,
- (i) drilling or converting a well for the disposal of waste liquids from a petroleum or natural gas well,
 - (ii) drilling for water or gas for injection into a petroleum or natural gas formation, or

- (iii) drilling or converting a well for the injection of water or gas to assist in the recovery of petroleum or natural gas from another well.

s. 63 (12) (f),
amended

- (12) Clause *f* of subsection 12 of the said section 63 is amended by striking out "or" at the end of subclause v, by striking out "and" at the end of subclause vi and inserting in lieu thereof "or" and by adding thereto the following subclause:

- (vii) production or marketing of sodium chloride or potash, or whose business includes manufacturing products the manufacturing of which involves processing sodium chloride or potash; and

s. 66 (5),
re-enacted

- 29.** Subsection 5 of section 66 of the said Act is repealed and the following substituted therefor:

Idem

(5) Where in a fiscal year of a corporation property of the corporation has been appropriated in any manner whatever to, or for the benefit of, a shareholder, on the winding up of the corporation, the following rules apply,

- (a) for the purpose of computing the corporation's income for the fiscal year,

- (i) it shall be deemed to have sold each such property immediately before the winding up and to have received therefor the fair market value thereof at that time, and

- (ii) clause *c* of subsection 2 of section 42 shall not apply in computing the loss, if any, from the sale of any such property;

- (b) the shareholder shall be deemed to have acquired the property at a cost equal to its fair market value immediately before the winding up; and

- (c) subsections 1, 1*a* and 2 of section 54 are not applicable for the purposes of determining the cost to the shareholder of the property.

Idem

(6) Where a corporation that operates an oil or gas well or a mineral resource in Canada disposes of any petroleum, natural gas or related hydrocarbons or metal or industrial minerals produced in the operation of such well or resource to,

- (a) Her Majesty in right of Canada or a province;

- (b) an agent of Her Majesty in right of Canada or a province; or
- (c) a corporation, commission or association that is controlled, directly or indirectly in any manner whatever, by Her Majesty in right of Canada or a province or by an agent of Her Majesty in right of Canada or a province,

for no proceeds of disposition or for proceeds of disposition less than the fair market value thereof at the time the corporation so disposes of it, the corporation shall be deemed to have received proceeds of disposition therefor equal to that fair market value determined, in circumstances where the corporation is required by a law or contract to so dispose thereof, without regard to that law or contract.

(7) Where a corporation that operates an oil or gas well ^{Idem} or a mineral resource in Canada acquires any petroleum, natural gas or related hydrocarbons or metal or industrial minerals produced in the operation of such well or resource from,

- (a) Her Majesty in right of Canada or a province;
- (b) an agent of Her Majesty in right of Canada or a province; or
- (c) a corporation, commission or association that is controlled, directly or indirectly in any manner whatever, by Her Majesty in right of Canada or a province or by an agent of Her Majesty in right of Canada or a province,

for an amount in excess of the fair market value thereof at the time the corporation so acquired the petroleum, natural gas or related hydrocarbons or metal or industrial minerals, the corporation shall be deemed to have acquired the petroleum, natural gas or related hydrocarbons or metal or industrial minerals at that fair market value determined, in circumstances where the corporation is required by a law or contract to so acquire the petroleum, natural gas or related hydrocarbons or metal or industrial minerals, without regard to that law or contract.

(8) For the purposes of subsection 6, the fair market value at the time of disposition of a unit of any particular quantity of petroleum, natural gas or related hydrocarbons or metal or industrial minerals disposed of by the corporation referred to in that subsection to a person referred to in any of clauses *a* to *c* of that subsection shall be deemed to be the amount by which,

Fair market
value of
resource
output
disposed of
to Crown

- (a) the average proceeds of disposition that became receivable in the month that included that time by that person for the disposition of a like unit from a person other than a person referred to in any of clauses *a* to *c* of subsection 6,

exceeds

- (b) the average aggregate of all expenses, including depreciation, incurred by that person in respect of that month for each such unit that may reasonably be attributed to transmitting, transporting, marketing or processing thereof to the extent that such expenses are reasonable and necessary and do not include any cost of acquisition thereof.

Fair market value of resource output acquired from Crown

(9) For the purposes of subsection 7, the fair market value of a unit of any particular quantity of petroleum, natural gas or related hydrocarbons or metal or industrial minerals acquired by the corporation referred to in that subsection from a person referred to in any of clauses *a* to *c* of that subsection shall be deemed to be equal to the amount, if any, paid or payable by the corporation to that person in respect of that unit.

Certain persons deemed to be the same person

(10) For the purposes of subsection 8, where a person referred to in any of clauses *a* to *c* of subsection 6 disposes of a unit of any particular quantity of petroleum, natural gas or related hydrocarbons or metal or industrial minerals to another person referred to in any of those clauses, those persons shall be deemed to be the same person.

s. 67 (4), re-enacted

30.—(1) Subsection 4 of section 67 of the said Act, as enacted by the Statutes of Ontario, 1973, chapter 157, section 18, is repealed and the following substituted therefor:

Debt deemed not to be income debt
R.S.C. 1970,
c. G-16

(4) Where a cash purchase ticket or other form of settlement prescribed pursuant to the *Canada Grain Act* or by the Minister is issued to a corporation in respect of grain delivered in a fiscal year of a corporation to a primary elevator or process elevator and such ticket or other form of settlement entitles the holder thereof to payment by the operator of the elevator of the purchase price, without interest, stated in the ticket for the grain at a date that is after the end of that fiscal year, the amount of the purchase price stated in the ticket or other form of settlement shall, notwithstanding any other provision of this section, be included in computing the income of the corporation to which the ticket or other form of settlement was issued for its fiscal year immediately

following the fiscal year in which the grain was delivered and not for the fiscal year in which the grain was delivered.

- (2) Subsection 5 of the said section 67, as enacted by the Statutes of Ontario, 1973, chapter 157, section 18, is amended by striking out "and 'primary elevator' " in the second line and inserting in lieu thereof " 'primary elevator' and 'process elevator' ".

- 31.** Clause *a* of section 68 of the said Act is repealed and the following substituted therefor:

- (a) the terms of the bond for which it was exchanged conferred upon the holder thereof the right to make the exchange; and

- 32.** Section 74*a* of the said Act, as enacted by the Statutes of Ontario, 1973, chapter 157, section 20, is amended by striking out "except paragraphs *c* and *d* of subsection 4 thereof" in the eleventh line.

- 33.** The said Act is further amended by adding thereto the following section:

74*b*. Where pursuant to a contract between a corporation and another person, in this section referred to as the "payee", any amount is paid or payable by the corporation or any property is transferred by the corporation to the payee as reimbursement in respect of any amount paid or payable referred to in clause *n* of subsection 1 of section 22 or the fair market value of any property paid or payable referred to in that clause by the payee to any of the persons referred to in any of subclauses *i* to *iii* of clause *n* of subsection 1 of section 22, for the purposes of this Act the following rules apply,

- (a) the corporation shall be deemed to have paid the amount or property, as the case may be, to a person or persons referred to in any of those subclauses;
- (b) the payee shall, to the extent of that reimbursement, be deemed not to have paid an amount or property, as the case may be;
- (c) the payee shall be deemed not to have received any reimbursement from the corporation; and
- (d) clause *o* of subsection 1 of section 16 shall not apply in respect of the amount or property paid or payable, as the case may be.

Reimbursement by corporation for payment to Crown deemed paid direct to Crown

s. 75 (1) (c),
amended

34.—(1) Clause *c* of subsection 1 of section 75 of the said Act is amended by striking out “by it” in the second line.

s. 75 (2) (b),
amended

(2) Clause *b* of subsection 2 of the said section 75 is amended by adding thereto the following subclause:

- (iii) “income derived from the operation of a mine” includes the income of a corporation from the processing, to the primary metal stage or its equivalent, of ore from a mineral resource owned by the corporation.

s. 78 (7),
amended

35. Subsection 7 of section 78 of the said Act is amended by inserting after “section” in the first line “or section 78*a*”.

s. 78*a*,
enacted

36. The said Act is further amended by adding thereto the following section:

Deemed
dividend
on repay-
ment of
debt

78*a*.—(1) Where, at any time before a particular time and after the 18th day of November, 1974, a corporation incurred any debt as consideration for the purchase of shares of the capital stock of a second corporation and,

(*a*) at any time before the debt was incurred, any particular person, or the group of persons to whom the debt was owed at the time it was incurred,

- (i) controlled the second corporation, directly or indirectly in any manner whatever, or

- (ii) beneficially owned shares of the capital stock of the second corporation representing more than 50 per cent of its paid-up capital; and

(*b*) at any time before the particular time, the particular person or group of persons referred to in clause *a*,

- (i) controlled the corporation, directly or indirectly in any manner whatever,

- (ii) beneficially owned shares of the capital stock of the corporation representing more than 50 per cent of its paid-up capital, or

- (iii) held an amount of debt payable by the corporation that exceeded the paid-up capital of the corporation, at a time when shares of the capital stock of the corporation representing more than 50 per cent of its paid-up capital were beneficially owned by,

- (A) that particular person,
- (B) that group of persons,
- (C) persons related to the particular person or any member of the group of persons, or
- (D) any combination of persons referred to in sub-subclause A, B or C,

the following rules apply,

- (c) where the corporation has, at the particular time, made any payment on account of that debt, or any other debt substituted for that debt,

- (i) a dividend shall be deemed to have been paid by the corporation at the particular time equal to the lesser of,

- (A) the amount of that payment, and

- (B) the amount, if any, by which,

- 1. the aggregate of the payment referred to in sub-subclause A and all payments made before the particular time on account of that debt, or any other debt substituted therefor,

exceeds

- 2. the debt limit of the corporation in respect of that debt,

- (ii) a dividend shall be deemed to have been received at the particular time, by each person who received any portion of that payment, equal to that proportion of the dividend so deemed to have been paid by the corporation at that time that the portion of that payment received by that person is of the amount of that payment, and

- (iii) section 77, except clause c of subsection 1 of section 77, shall be applicable to the dividend referred to in subclause i as though the persons referred to in subclause ii were shareholders of a class of shares of the capital stock of the corporation; and

(*d*) where any portion of that debt or any debt substituted for that debt, is converted into shares of the capital stock of the corporation, an amount equal to the lesser of,

(i) the portion of that debt, or any debt substituted for that debt, that was so converted, and

(ii) the amount, if any, by which,

(A) the amount of the debt owed by the corporation at the time it was incurred,

exceeds

(B) the debt limit of the corporation in respect of that debt,

shall be added to the aggregate of the amounts determined under subclause *iva* of clause *d* of subsection 1 of section 83 at any time after the time of the conversion.

Debt limit
defined

(2) For the purposes of this section, the "debt limit" of a corporation in respect of any debt incurred by it as consideration for the purchase of shares of the capital stock of a second corporation shall be the amount, if any, by which,

(a) the amount of the debt owed by the corporation at the time it was incurred,

exceeds

(b) the amount if any, by which the aggregate of,

(i) the amount of the debt owed by the corporation at the time it was incurred, and

(ii) the fair market value, at the time the debt was incurred, of any other consideration, other than shares of the capital stock of the corporation, given by the corporation for the purchase of the shares of the capital stock of the second corporation,

exceeds the lesser of,

(iii) the paid-up capital limit of the second corporation at the time the debt was incurred, and

- (iv) the paid-up capital, at the time the debt was incurred, of the shares of the capital stock of the second corporation so purchased.

37. The said Act is further amended by adding thereto the following section: s. 78b,
enacted

- 78b. Where a corporation has at any particular time before July, 1976, notified the Minister in writing that it wishes, Special
rules
relating to
shares
issued or
debt
incurred
before
November 19,
1974
- (a) to have subclause *iva* of clause *d* of subsection 1 of section 83 apply to all shares, if any, issued by it before the 19th day of November, 1974; and
- (b) to have section 78a apply to all debt, if any, incurred by it before the 19th day of November, 1974,

the following rules apply,

- (c) subsection 6 of section 83 shall not apply for the purposes of computing the paid-up capital deficiency of the corporation at any time after the particular time;
- (d) section 78a shall be read without reference to "and after the 18th day of November, 1974";
- (e) the amount of any dividend that the corporation would, by virtue of clause *c* of subsection 1 of section 78a, be deemed to have paid in respect of payments, before the particular time, of or on account of any debt incurred by the corporation prior to the 19th day of November, 1974, or any debt substituted for that debt, shall be deemed to be nil;
- (f) subclause *iii* of clause *b* of subsection 2 of section 78a shall be read as "the paid-up capital limit of the second corporation at the time the debt was incurred or on the 18th day of November, 1974, where that day is later"; and
- (g) subclause *iv* of clause *b* of subsection 2 of section 78a shall be read as "the paid-up capital, at the time the debt was incurred, of the shares of the second corporation so purchased" (on the assumption that clause *c* of subsection 1 of section 83 applied at that time).

38.—(1) Subsection 1 of section 79 of the said Act, as amended s. 79 (1),
amended by the Statutes of Ontario, 1973, chapter 157, section 21,

is further amended by striking out all that portion thereof immediately preceding clause *a* and inserting in lieu thereof the following:

(1) Where a person has, after the 6th day of May, 1974, disposed of any property that was a capital property (other than real property or an option in respect thereof owned by a non-resident person), an eligible capital property, an inventory other than real property or a property referred to in subsection 2 of section 59 of the person to a Canadian corporation for consideration including shares of the capital stock of the corporation, if the person and the corporation, have jointly so elected in prescribed form and within the prescribed time, the following rules apply:

s. 79 (1),
amended

(2) Subsection 1 of the said section 79 is further amended by adding thereto the following clause:

(*ca*) where the property was inventory or capital property (other than depreciable property of a prescribed class) of the person and the amount that the person and the corporation have agreed upon in their election in respect of the property is less than the lesser of,

(i) the fair market value of the property at the time of the disposition, and

(ii) the cost amount to the person of the property at the time of the disposition,

the amount so agreed upon shall, irrespective of the amount actually so agreed upon by them, be deemed to be an amount equal to the lesser of the amounts described in subclauses i and ii.

s. 79 (1) (*d*),
amended

(3) Clause *d* of subsection 1 of the said section 79 is amended by striking out "and notwithstanding clauses *b* and *c*" in the fourteenth line.

s. 79 (1) (*e*),
amended

(4) Clause *e* of subsection 1 of the said section 79 is amended by striking out "and notwithstanding clauses *b* and *c*" in the fourteenth line.

s. 79 (1),
amended

(5) Subsection 1 of the said section 79 is further amended by adding thereto the following clauses:

(*ea*) where two or more properties, each of which is a property described in clause *d* or each of which is a property described in clause *e*, are disposed of at

the same time, clause *d* or *e*, as the case may be, applies as if each property so disposed of had been separately disposed of in the order designated by the person before the time prescribed for the filing of an election in respect of those properties or, if the person does not so designate any such order, in the order designated by the Minister;

(*eb*) where the fair market value of the property at the time of the disposition exceeds the greater of,

- (i) the fair market value at the time of the disposition of the consideration received by the person for the property disposed of by him, and
- (ii) the amount that the person and the corporation have agreed upon in their election in respect of the property, determined without reference to this clause,

and it is reasonable to regard any portion of such excess as a gift made by the person to or for the benefit of any other shareholder of the corporation, the amount that the person and the corporation have agreed upon in their election in respect of the property shall, irrespective of the amount actually so agreed upon by them, be deemed (except for the purposes of clauses *g* and *h*) to be an amount equal to the aggregate of,

(iii) the amount referred to in subclause ii, and

(iv) the portion of such excess that may reasonably be regarded as a gift made by the person to or for the benefit of any other shareholder of the corporation;

(*ec*) where, under any of clauses *ca*, *d* and *e*, the amount that the person and the corporation have agreed upon in their election in respect of the property, in this clause referred to as "the elected amount", would, subject to clause *c*, be deemed to be an amount that is greater or less than the amount that would be deemed to be the elected amount under clause *b*, the elected amount shall be deemed to be the greater of,

- (i) the amount deemed by clause *ca*, *d* or *e*, as the case may be, to be the elected amount, and

- (ii) the amount deemed by clause *b* to be the elected amount.

s. 79 (1) (i),
re-enacted

- (6) Clause *i* of subsection 1 of the said section 79 is repealed and the following substituted therefor:

- (i) where the property so disposed of is taxable Canadian property of the person, all of the shares of the capital stock of the Canadian corporation received by him as consideration therefor shall be deemed to be taxable Canadian property of the person.

s. 79 (2),
re-enacted

- (7) Subsection 2 of the said section 79, as amended by the Statutes of Ontario, 1973, chapter 157, section 21, is repealed and the following substituted therefor:

- (2) Where, after the 6th day of May, 1974,

Transfer of
property to
corporation
from
partnership

- (a) a partnership has disposed of any partnership property that was a capital property (other than real property or an interest therein owned by a partnership that was not a Canadian partnership at the time of the disposition), an eligible capital property, an inventory other than real property or a property referred to in subsection 2 of section 59 of the partnership to a Canadian corporation for consideration, including shares of the capital stock of the corporation; and

- (b) the corporation and all the members of the partnership have jointly so elected in prescribed form and in prescribed time,

clauses *a* to *i* of subsection 1 and subsection 1*a* are applicable in respect of the disposition *mutatis mutandis* as if the partnership were a person resident in Canada who had disposed of the property to the corporation.

s. 79 (2*a*),
repealed

- (8) Subsection 2*a* of the said section 79, as enacted by the Statutes of Ontario, 1973, chapter 157, section 21, is repealed.

s. 79 (4),
re-enacted

- (9) Subsection 4 of the said section 79 is repealed and the following substituted therefor:

Where
loss from
disposition
of property
to controlled
corporation

- (4) Where a person or a partnership has, after May 6, 1974, disposed of any capital property or eligible capital property of the person or partnership to a corporation that, immediately after the disposition, was controlled, directly or indirectly in any manner whatever, by the person or partner-

ship, or where the person is an individual by the spouse of such person, or by another person or group of persons by whom the person or partnership was controlled, directly or indirectly in any manner whatever and, but for this subsection, subsection 2 of section 28 and clauses *c* and *e* of subsection 2 of section 42, the person or partnership would have had a capital loss therefrom or a deduction pursuant to clause *a* of subsection 1 of section 28 in computing the income of the person or partnership for the fiscal year in which the person or partnership ceased to carry on a business, as the case may be, the following rules apply,

- (a) notwithstanding section 28 and clauses *c* and *e* of subsection 2 of section 42, the capital loss therefrom of the person or partnership, or the deduction pursuant to clause *a* of subsection 1 of section 28 in computing the income of the person or partnership for the fiscal year in which the person or partnership ceased to carry on the business, as the case may be, otherwise determined shall be deemed to be nil; and
- (b) in computing the adjusted cost base to the person or partnership of all shares of any particular class of the capital stock of the corporation owned by the person or partnership immediately after the disposition, there shall be added, in the case of capital property, the amount that is equal to, and in the case of eligible capital property, twice the amount that is equal to, that proportion of the amount, if any, by which,
 - (i) the cost amount to the person or partnership immediately before the disposition, of the property so disposed of,

exceeds

- (ii) the proceeds to the person or partnership of disposition of the property or where the property was an eligible capital property, the eligible capital amount for the person or partnership, within the meaning assigned by section 18, as a result of the disposition of that property,

that

- (iii) the fair market value, immediately after the disposition, of all shares of that class so owned by the person or partnership,

is of

- (iv) the fair market value, immediately after the disposition, of all shares of the capital stock of the corporation so owned by the person or partnership.

s. 79a,
enacted

39. The said Act is further amended by adding thereto the following section:

Share for
share
exchange

79a.—(1) Where shares of any particular class of the capital stock of a Canadian corporation, in this section referred to as the “purchaser”, have, after the 6th day of May, 1974, been acquired by a person, in this section referred to as the “vendor”, from the purchaser in exchange for capital property of the vendor that is shares of any particular class of the capital stock, in this section referred to as the “exchanged shares”, of another corporation, in this section referred to as the “acquired corporation”, subject to subsection 2, the following rules apply,

- (a) except where the vendor has, in his return of income for the fiscal year in which the exchange occurred, included in computing his income for that year any portion of the gain or loss, otherwise determined, from the disposition of the exchanged shares, the vendor shall be deemed,
 - (i) to have disposed of the exchanged shares for proceeds of disposition equal to the adjusted cost base to him of those shares immediately before the exchange, and
 - (ii) to have acquired the shares of the purchaser at a cost to him equal to the adjusted cost base to him of the exchanged shares immediately before the exchange,

and where the exchanged shares were taxable Canadian property of the vendor, the shares of the purchaser so acquired by him shall be deemed to be taxable Canadian property of the vendor; and

- (b) the cost to the purchaser of each exchanged share, at any particular time up to and including the time he disposed of such share, shall be deemed to be,
 - (i) its fair market value immediately before the exchange if, at the particular time or at any earlier time after the exchange, the purchaser owned shares of the capital stock of the acquired corporation,

(A) to which are attached not less than 10 per cent of all the votes that could then be cast for any and all purposes by holders of all shares of the capital stock of the acquired corporation, and

(B) that represent not less than 10 per cent of the fair market value of all issued and outstanding shares of the capital stock of the acquired corporation, and

(ii) in any other case, nil.

(2) Subsection 1 does not apply where,

Where subs. 1
not to apply

(a) the vendor and purchaser were, immediately before the exchange, not dealing with each other at arm's length;

(b) the vendor or persons with whom he did not deal at arm's length, or the vendor together with persons with whom he did not deal at arm's length,

(i) controlled, directly or indirectly in any manner whatever, the purchaser, or

(ii) beneficially owned shares of the capital stock of the purchaser representing more than 50 per cent of its paid-up capital,

immediately after the exchange;

(c) the vendor and the purchaser have filed an election under subsection 1 or 2 of section 79 with respect to the exchanged shares; or

(d) consideration other than shares of the particular class of the capital stock of the purchaser was received by the vendor for the exchanged shares, notwithstanding that the vendor may have disposed of shares of the capital stock of the acquired corporation, other than the exchanged shares, to the purchaser for consideration other than shares of one class of the capital stock of the purchaser.

(3) Where a person has disposed of capital property that was shares of the capital stock of a foreign affiliate of the person to any corporation that was, immediately following the disposition, a foreign affiliate of the person (in this sub-

Disposition
of shares
of foreign
affiliate

1970-71,
c. 63 (Can.)

section referred to as the "acquiring affiliate") for consideration including shares of the capital stock of the acquiring affiliate, the provisions of subsection 3 of section 85.1 of the *Income Tax Act* (Canada) apply for the purposes of this Act.

s. 80,
re-enacted

40. Section 80 of the said Act is repealed and the following substituted therefor:

Exchanges of
shares by a
shareholder
in course of
reorganiza-
tion of
capital

80.—(1) Where, at a particular time after the 6th day of May, 1974, in the course of a reorganization of the capital of a corporation, a person has disposed of capital property that was all the shares of any particular class of the capital stock of the corporation that were owned by him at the particular time, in this section referred to as the "old shares", and property is receivable from the corporation therefor that includes other shares of the capital stock of the corporation, in this section referred to as the "new shares", the following rules apply,

- (a) the cost to the person of any property (other than shares of the capital stock of the corporation) receivable by him for the old shares shall be deemed to be its fair market value at the time of the disposition;
- (b) the cost to the person of any new shares of any class of the capital stock of the corporation receivable by him for the old shares shall be deemed to be that proportion of the amount, if any, by which the aggregate of the adjusted cost bases to him, immediately before the disposition, of the old shares exceeds the fair market value at that time of the consideration receivable therefor (other than shares of the capital stock of the corporation) that,
 - (i) the fair market value, immediately after the disposition, of those new shares of that class,
 is of,
 - (ii) the fair market value, immediately after the disposition, of all new shares of the capital stock of the corporation receivable by him for the old shares; and
- (c) the person shall be deemed to have disposed of the old shares for proceeds of disposition equal to the cost to him of all new shares and other property receivable by him for the old shares.

(2) This section is not applicable in any case where section 53 or any of subsections 1 to 3 of section 79 are applicable. Application

41.—(1) Clauses *a*, *b* and *c* of subsection 1 of section 81 of the said Act are repealed and the following substituted therefor: s. 81 (1) (a-c),
re-enacted

- (a) all of the property (except amounts receivable from any predecessor corporation or shares of the capital stock of any predecessor corporation) of the predecessor corporations immediately before the merger becomes property of the new corporation by virtue of the merger;
- (b) all of the liabilities (except amounts payable to any predecessor corporation) of the predecessor corporations immediately before the merger become liabilities of the new corporation by virtue of the merger; and
- (c) all of the shareholders (except any predecessor corporation) of the predecessor corporations immediately before the merger receive shares of the capital stock of the new corporation by virtue of the merger,

(2) Clause *c* of subsection 2 of the said section 81 is repealed and the following substituted therefor: s. 81 (2) (c),
re-enacted

- (c) in computing the income of the new corporation for a fiscal year from a business or property, Method
adopted for
computing
income
 - (i) there shall be included any amount received or receivable (depending upon the method followed by the new corporation in computing its income for that year) by it in that year that would, if it had been received or receivable (depending upon the method followed by the predecessor corporation in computing its income for its last fiscal year) by the predecessor corporation in its last fiscal year, have been included in computing the income of the predecessor corporation for that year, and
 - (ii) there may be deducted any amount paid or payable (depending upon the method followed by the new corporation in computing

its income for that year) by it in that year that would, if it had been paid or payable (depending upon the method followed by the predecessor corporation in computing its income for its last fiscal year) by the predecessor corporation in its last fiscal year, have been deductible in computing the income of the predecessor corporation for that year.

s. 81 (2),
amended

- (3) Subsection 2 of the said section 81, as amended by the Statutes of Ontario, 1973, chapter 157, section 22, is further amended by adding thereto the following clause:

Depreciable
property
acquired
from
predecessor
corporation

- (*da*) for the purposes of this Act, where depreciable property, other than property of a prescribed class, has been acquired by the new corporation from a predecessor corporation, the new corporation shall be deemed to have acquired the property before 1972 at an actual cost equal to the actual cost thereof to the predecessor corporation, and the new corporation shall be deemed to have been allowed the aggregate of all amounts allowed to the predecessor corporation in respect of the property, under regulations made under clause *a* of subsection 1 of section 24, in computing the income of the predecessor corporation.

s. 81 (2) (*k*),
re-enacted

- (4) Clause *k* of subsection 2 of the said section 81 is repealed and the following substituted therefor:

Scientific
research

- (*k*) for the purposes of section 39,

- (i) an amount equal to the aggregate of all amounts each of which is the amount of an expenditure referred to in clause *a* of subsection 1 of section 39 made by a predecessor corporation shall, to the extent that it was not deducted by the predecessor corporation in computing its income for a fiscal year, be deemed to be an expenditure of a current nature on scientific research made in Canada by the new corporation in its first fiscal year,
- (ii) an amount equal to the aggregate of all amounts each of which is the amount of an expenditure referred to in subclause *i* of clause *b* of subsection 1 of section 39 made by a predecessor corporation shall, to the extent that it was not deducted by the

predecessor corporation in computing its income for a fiscal year, be deemed to be an expenditure of a capital nature on scientific research made in Canada by the new corporation in its first fiscal year,

- (iii) an amount equal to the aggregate of all amounts each of which is the amount of an expenditure referred to in clause *c* of subsection 1 of section 39 made by a predecessor corporation shall, to the extent that it was not deducted by a predecessor corporation in computing its income for a fiscal year, be deemed to be an expenditure incurred by the new corporation in its first fiscal year by way of repayment of an amount paid to the new corporation under an *Appropriation Act* (Canada), and on terms and conditions described in clause *c* of subsection 1 of section 39, and
- (iv) an amount equal to the aggregate of all amounts each of which is an amount paid to a predecessor corporation referred to in clause *d* of subsection 1 of section 39 shall be deemed to be an amount paid to the new corporation in its first fiscal year under an *Appropriation Act* (Canada) and on terms and conditions described in clause *c* of subsection 1 of section 39;
- (ka) if the amalgamation was after the 6th day of May, 1974 and a property of a predecessor corporation was lost, destroyed or taken under statutory authority prior to the amalgamation, sections 17 and 46 apply to the new corporation as though,
 - (i) the new corporation had been in existence and owned that property at the time it was so lost, destroyed or taken,
 - (ii) the cost or capital cost, as the case may be, of that property to the new corporation were its cost or capital cost, as the case may be, to the predecessor corporation, and
 - (iii) where the predecessor corporation had acquired a replacement property for that property before the amalgamation, the new corporation had acquired that replacement property immediately after the amalgamation.

Property
lost,
destroyed
or taken

s. 81 (2) (p),
amended

- (5) Clause *p* of subsection 2 of the said section 81 is amended by inserting after "time" in the third line "after the amalgamation".

s. 81 (2) (q),
amended

- (6) Clause *q* of subsection 2 of the said section 81 is amended by striking out all that portion thereof immediately preceding subclause i and inserting in lieu thereof the following:

1971 capital
surplus on
hand and
paid-up
capital
deficiency

- (q) for the purpose of computing the 1971 capital surplus on hand or the paid-up capital deficiency, as the case may be, of the new corporation at any time after the amalgamation, there shall be added to the aggregate of the amounts determined under subclause iv of clause *l* of subsection 1 of section 83, the amount, if any, by which,

s. 81 (2) (r),
amended

- (7) Clause *r* of subsection 2 of the said section 81 is amended by striking out all that portion thereof immediately preceding subclause i and inserting in lieu thereof the following:

Idem

- (r) for the purpose of computing the 1971 capital surplus on hand or the paid-up capital deficiency, as the case may be, of the new corporation at any time after the amalgamation, there shall be added to the aggregate of the amounts determined under subclause iii of clause *d* of subsection 1 of section 83 the amount, if any, by which,

s. 81 (2),
amended

- (8) Subsection 2 of the said section 81 is further amended by adding thereto the following clause:

Idem

- (ra) for the purpose of computing the 1971 capital surplus on hand or the paid-up capital deficiency, as the case may be, of the new corporation at any time after the amalgamation, there shall be added to the aggregate of the amounts determined under subclause iii of clause *d* of subsection 1 of section 83 the amount, if any, by which,

- (i) the paid-up capital of the new corporation immediately after the amalgamation,

exceeds

- (ii) the aggregate of amounts each of which is the paid-up capital in respect of a share

(except a share held by any other predecessor corporation) of the capital stock of a predecessor corporation immediately before the amalgamation.

- (9) Clause *s* of subsection 2 of the said section 81 is amended by striking out "vii" in the fourth line and inserting in lieu thereof "xiv". s. 81 (2) (s),
amended
- (10) Subsection 2 of the said section 81 is further amended by adding thereto the following clause: s. 81 (2),
amended
- (sa) where one or more shares of the capital stock of a foreign affiliate of a predecessor corporation have, by virtue of the amalgamation, been acquired by the new corporation and as a result thereof the affiliate has become a foreign affiliate of the new corporation, the provisions of paragraph *u* of subsection 2 of section 87 of the *Income Tax Act* (Canada) apply for the purposes of this Act. Shares of
foreign
affiliate

1970-71,
c. 63 (Can.)
- (11) Clause *w* of subsection 2 of the said section 81 is repealed and the following substituted therefor: s. 81 (2) (w),
re-enacted
- (w) for the purpose of computing, at any particular time after the amalgamation, the capital dividend account for a new corporation that has been a private corporation continuously from the time of the amalgamation to the particular time, there shall be added the amount of the capital dividend account of any predecessor corporation immediately before the amalgamation. Capital
dividend
account
- (12) Clause *a* of subsection 3 of the said section 81 is amended by striking out "subclauses i to iv" in the eighth line and inserting in lieu thereof "subclause iii". s. 81 (3) (a),
amended
- (13) Subsection 4 of the said section 81, as amended by the Statutes of Ontario, 1973, chapter 157, section 22, is repealed and the following substituted therefor: s. 81 (4),
re-enacted
- (4) Where there has been an amalgamation of two or more corporations after the 6th day of May, 1974, each shareholder (except any predecessor corporation) who, immediately before the amalgamation, owned shares of the capital stock of a predecessor corporation (in this subsection referred to as the "old shares") that were capital property to him and who received no consideration for the disposition of those shares on the amalgamation, other than shares of the capital stock of the new corporation (in this section referred to as the "new shares") shall be deemed, Shares of
predecessor
corporation

- (a) to have disposed of the old shares for proceeds equal to the aggregate of the adjusted cost bases to him of those shares immediately before the amalgamation; and
- (b) to have acquired the new shares of any particular class of the capital stock of the new corporation at a cost to him equal to that proportion of the proceeds described in clause *a* that,
 - (i) the fair market value, immediately after the amalgamation, of all new shares of that particular class so acquired by him,

is of

- (ii) the fair market value, immediately after the amalgamation, of all new shares so acquired by him,

and where the old shares were taxable Canadian property of the shareholder, the new shares shall be deemed to be taxable Canadian property of the shareholder.

s. 81 (5),
re-enacted

- (14) Subsection 5 of the said section 81, as re-enacted by the Statutes of Ontario, 1973, chapter 157, section 22, is repealed and the following substituted therefor:

Options to
acquire
shares of
predecessor
corporation

(5) Where there has been an amalgamation of two or more corporations after the 6th day of May, 1974, each person, except any predecessor corporation, who immediately before the amalgamation owned a capital property that was an option to acquire shares of the capital stock of a predecessor corporation, in this subsection referred to as the "old option", and who received no consideration for the disposition of that option on the amalgamation, other than an option to acquire shares of the capital stock of the new corporation, in this subsection referred to as the "new option", shall be deemed,

- (a) to have disposed of the old option for proceeds equal to the adjusted cost base to him of that option immediately before the amalgamation; and
- (b) to have acquired the new option at a cost to him equal to the proceeds described in clause *a*,

and where the old option was taxable Canadian property of the person, the new option shall be deemed to be taxable Canadian property of the person.

- (15) Subsection 6 of the said section 81 is repealed and the following substituted therefor: s. 81 (6),
re-enacted

(6) Notwithstanding subsection 7, where there has been an amalgamation of two or more corporations after the 6th day of May, 1974, each person, except any predecessor corporation, who immediately before the amalgamation owned a capital property that was a bond, debenture, mortgage, note or other similar obligation of a predecessor corporation, in this subsection referred to as the "old property", and who received no consideration for the disposition of the old property on the amalgamation other than a bond, debenture, mortgage, note or other similar obligation respectively, of the new corporation, in this subsection referred to as the "new property", shall, if the amount payable to the holder of the new property on its maturity is the same as the amount that would have been payable to the holder of the old property on its maturity, be deemed, Obligations
of
predecessor
corporation

(a) to have disposed of the old property for proceeds equal to the adjusted cost base to him of that property immediately before the amalgamation; and

(b) to have acquired the new property at a cost to him equal to the proceeds described in clause a.

(7) Where there has been an amalgamation of two or more corporations after the 6th day of May, 1974 and, Idem

(a) a debt or other obligation of a predecessor corporation, other than any such debt or other obligation owed to any other predecessor corporation, was outstanding immediately before the amalgamation and became a debt or other obligation, as the case may be, of the new corporation on the amalgamation; and

(b) the amount payable by the new corporation on the maturity of the debt or other obligation, as the case may be, is the same as the amount that would have been payable by the predecessor corporation on its maturity,

the provisions of this Act,

(c) shall not apply in respect of the transfer of such debt or other obligation to the new corporation; and

- (d) shall apply as if the new corporation had incurred or issued the debt or other obligation at the time it was incurred or issued by the predecessor corporation.

Merger of
foreign
affiliate

(8) Where there has been a merger of a foreign affiliate of a person, in this subsection referred to as a "predecessor affiliate", and one or more other corporations to form one corporate entity that, immediately after the merger, is a foreign affiliate of the person and such merger is not as a result of the acquisition of property of one corporation by another corporation, pursuant to the purchase of such property by the other corporation, or as a result of the distribution of such property to another corporation upon the winding up of the predecessor affiliate, the provisions of subsection 8 of section 87 of the *Income Tax Act* (Canada) apply for the purposes of this Act.

1970-71,
c. 63 (Can.)

s. 82 (1),
amended

42.—(1) Subsection 1 of section 82 of the said Act, as amended by the Statutes of Ontario, 1973, chapter 157, section 23, is further amended by striking out all that portion thereof immediately preceding clause *b* and inserting in lieu thereof the following:

Winding up
of wholly-
owned
Canadian
corporation

(1) Where a Canadian corporation, in this section referred to as the "subsidiary", has been wound up after the 6th day of May, 1974 and all of the issued shares of the capital stock thereof were, immediately before the winding up, owned by another Canadian corporation, in this section referred to as the "parent", notwithstanding any other provisions of this Act, the following rules apply,

- (a) subject to clause *aa*, each property of the subsidiary that was distributed to the parent on the winding up shall be deemed to have been disposed of by the subsidiary for proceeds equal to,

(i) in the case of any property described in subsection 2 of section 59, nil,

(ii) in the case of any eligible capital property, an amount equal to twice the cost amount to the subsidiary of such property immediately before the winding up, and

(iii) in the case of any other property, the cost amount to the subsidiary of the property immediately before the winding up;

(*aa*) each property of the subsidiary that was distributed to the parent on the winding up shall, for

the purpose of subclause ii or xiv of clause *l* of subsection 1 of section 83, be deemed not to have been disposed of.

- (2) Subclause ii of clause *b* of subsection 1 of the said section 82, as amended by the Statutes of Ontario, 1973, chapter 157, section 23, is further amended by striking out "minus any subsequent deduction from that adjusted cost base that is required by subsection 2 of section 55 to be made as a result of the deemed dividend referred to in clause *e*" in the amendment of 1973. ^{s. 82 (1) (b) (ii), amended}

- (3) Clause *d* of subsection 1 of the said section 82 is amended ^{s. 82 (1) (d), amended} by striking out all that portion immediately preceding subclause ii and inserting in lieu thereof the following:

(*d*) the amount determined under this clause in respect of each property that was a capital property, other than a depreciable property, of the subsidiary is such portion of the amount, if any, by which the aggregate determined under subclause ii of clause *b* exceeds the aggregate of,

(i) the amount, if any, by which,

(A) the aggregate of amounts each of which is an amount in respect of any property owned by the subsidiary immediately before the winding up, equal to the cost amount to the subsidiary of the property immediately before the winding up, plus the amount of any money of the subsidiary on hand immediately before the winding up,

exceeds the aggregate of,

(B) all amounts each of which is the amount of any debt owing by the subsidiary, or of any other obligation of the subsidiary to pay any amount, that was outstanding immediately before the winding up, and

(C) the amount of any reserve, other than a reserve referred to in clause *p* of subsection 1 of section 24, subclause iii of clause *a* of subsection 1 of section 42 or subsection 1 of section 61, deducted in computing the subsidiary's

income for its fiscal year during which its assets were distributed to the parent on the winding up,

(ia) the amount of the subsidiary's tax-paid undistributed surplus on hand at the time it was wound up, and

(ib) the amount of the subsidiary's 1971 capital surplus on hand at the time it was wound up,

as is designated by the parent in respect of that capital property in its return of income under this Part for its fiscal year in which the subsidiary was so wound up, except that,

s. 82 (1) (e),
re-enacted

(4) Clause *e* of subsection 1 of the said section 82, as amended by the Statutes of Ontario, 1973, chapter 157, section 23, is repealed and the following substituted therefor:

(*e*) subsection 2 of section 78 and section 21 of *The Corporations Tax Application Rules, 1972* are not applicable to the winding up of the subsidiary;

(*ea*) the subsidiary may, for the purpose of computing its income for its fiscal year during which its assets were transferred to the parent on the winding up, claim any reserve that would have been allowed under this Part if its assets had not been transferred to the parent on the winding up and notwithstanding any other provision of this Part, no amount shall be included in respect of any reserve so claimed in computing the income of the subsidiary for its fiscal year, if any, following the year in which its assets were transferred to the parent;

(*eb*) the provisions of clauses *c*, *da*, *g* to *sa*, *v* and *w* of subsection 2 of section 81 and, subject to section 69, subsection 7 of section 81 apply to the winding up as if the references therein to,

(i) "amalgamation" were read as "winding up"

(ii) "predecessor corporation" were read as "subsidiary",

(iii) "new corporation" were read as "parent"

- (iv) "its first fiscal year" were read as "its fiscal year during which it received the assets of the subsidiary on the winding up",
 - (v) "its last fiscal year" were read as "its fiscal year during which its assets were distributed to the parent on the winding up",
 - (vi) "predecessor corporation's gain" were read as "subsidiary's gain",
 - (vii) "new corporation's gain" were read as "parent's gain",
 - (viii) "predecessor corporation's income" were read as "subsidiary's income",
 - (ix) "new corporation's income" were read as "parent's income",
 - (x) "tax-paid undistributed surplus on hand immediately before the amalgamation" were read as "tax paid undistributed surplus on hand, at the time the subsidiary was wound up",
 - (xi) "the aggregate of amounts each of which is the 1971 capital surplus on hand, if any, of a predecessor corporation immediately before the amalgamation" were read as "the amount of the subsidiary's 1971 capital surplus on hand at the time the subsidiary was wound up",
 - (xii) "the aggregate of amounts each of which is the paid-up capital deficiency, if any, of a predecessor corporation immediately before the amalgamation" were read as "the amount of the subsidiary's paid-up capital deficiency at the time the subsidiary was wound up", and
 - (xiii) "the capital dividend account of any predecessor corporation immediately before the amalgamation" were read as "the capital dividend account of the subsidiary at the time the subsidiary was wound up";
- (ec) for the purposes of clauses *a* and *b* of subsection 1 of section 98, gifts made by the subsidiary in its last fiscal year shall, to the extent that they were

not deductible in computing its taxable income for that fiscal year, be deemed to have been made by the parent in its first fiscal year ending after the subsidiary was wound up; and

s. 82 (2),
amended

- (5) Subsection 2 of the said section 82, as enacted by the Statutes of Ontario, 1973, chapter 157, section 23, is amended by striking out "whether or not it is a subsidiary" in the first and second lines and inserting in lieu thereof "other than a subsidiary" and by striking out "1971" in the third line and inserting in lieu thereof "the 6th day of May, 1974".

s. 82 (2) (a) (vi),
re-enacted

- (6) Subclause vi of clause *a* of subsection 2 of the said section 82 is repealed and the following substituted therefor:

- (vi) each property of the corporation that was so distributed at the particular time shall be deemed to have been disposed of by the corporation immediately before the end of the fiscal year so deemed to have ended for proceeds equal to the fair market value thereof immediately before the particular time; and

s. 82 (2) (b),
amended

- (7) Clause *b* of subsection 2 of the said section 82 is amended by striking out "or clause *e* of subsection 1" in the second line.

s. 82,
amended

- (8) The said section 82 is further amended by adding thereto the following subsection:

Dissolution
of foreign
affiliate

- (3) Where on the dissolution of a foreign affiliate of a person one or more shares of the capital stock of another foreign affiliate of the person have been disposed of to the person, the provisions of subsection 3 of section 88 of the *Income Tax Act* (Canada) apply for the purposes of this Act.

1970-71,
c. 63 (Can.)

s. 83 (1) (b) (i),
re-enacted

- 43.—**(1) Subclause i of clause *b* of subsection 1 of section 83 of the said Act is repealed and the following substituted therefor:

- (i) one-half of the amount, if any, by which the aggregate of the capital gains of the corporation, for the period commencing on the first day of the first fiscal year commencing after the time the corporation last became a private corporation and ending after 1971, and ending immediately before the particular time, exceeds the aggregate of its capital losses for that period.

- (2) Clause *c* of subsection 1 of the said section 83 is repealed ^{s. 83 (1) (c),} and the following substituted therefor: _{re-enacted}

(c) "paid-up capital" at any particular time means,

(i) in respect of a share of any class of the capital stock of a corporation, an amount equal to the paid-up capital at that time, in respect of the class of shares of the capital stock of the corporation to which that share belongs, divided by the number of issued shares of that class outstanding at that time,

(ii) in respect of a class of shares of the capital stock of a corporation, the amount, if any, by which the aggregate of,

(A) an amount equal to the paid-up capital in respect of that class of shares at that time, determined without reference to this subclause,

(B) all amounts each of which is an amount in respect of the issue of any share of that class by the corporation before that time equal to the amount, if any, by which,

1. the fair market value, at the time that share was issued, of the consideration received by the corporation for the issue of that share,

exceeds

2. the amount by which the paid-up capital referred to in sub-subclause A was increased by virtue of the issue of that share, and

(C) all amounts each of which is the amount by which,

1. that portion of the amount, if any, by which,

i. any contribution of property, other than eligible capital property, before that time to the corporation by a shareholder who owned shares of that class,

exceeds

- ii. any consideration given by the corporation in respect of that contribution of property,

that cannot reasonably be regarded as a gift made to or for the benefit of any other shareholder of the corporation,

exceeds

- 2. the portion of the portion determined under paragraph 1 that has otherwise been included in the paid-up capital in respect of that or any other class of shares of the capital stock of the corporation,

exceeds the aggregate of,

- (D) all amounts each of which is an amount in respect of the redemption, acquisition or cancellation in any manner whatever, before that time, of a share of that class by the corporation equal to the amount, if any, by which,

- 1. the paid-up capital in respect of that share immediately before such redemption, acquisition or cancellation,

exceeds

- 2. the reduction in the amount of the paid-up capital referred to in sub-subclause A by virtue of such redemption, acquisition or cancellation,

- (E) all amounts each of which is an amount in respect of a reduction of the paid-up capital of that class, before that time, otherwise than by way of redemption, acquisition or cancellation of shares of that class equal to the amount, if any, by which,

1. the amount paid by the corporation on the reduction of the paid-up capital,

exceeds

2. the reduction in the amount of the paid-up capital referred to in sub-subclause A by virtue of such reduction, and

(F) all amounts each of which is the amount of a dividend that the corporation would, but for this clause, have been deemed, by subsection 1 of section 78, to have paid before that time on an increase in the paid-up capital of that class of shares other than an increase on the issue of a share of that class or by virtue of the amalgamation of two or more corporations, and

(iii) in respect of all the shares of the capital stock of a corporation, an amount equal to the aggregate of all amounts each of which is an amount equal to the paid-up capital in respect of any class of shares of the capital stock of the corporation at the particular time.

- (3) Clause *d* of subsection 1 of the said section 83 is amended <sup>s. 83 (1) (d),
amended</sup> by striking out all that portion thereof immediately preceding subclause v and inserting in lieu thereof the following:

(*d*) “paid-up capital deficiency” of a corporation at any particular time after the 6th day of May, 1974 means the amount, if any, by which the aggregate of,

- (i) the amounts determined under subclauses xii and xiii of clause *l* in respect of the corporation,
- (ii) all amounts determined under subclauses xiv, xv and xviii of clause *l* in respect of the corporation at the particular time,
- (iii) all amounts each of which is an amount equal to the paid-up capital at the particular time in respect of a share of the capital stock of

the corporation issued after 1971 that was received by a person as described in subsection 1 of section 37 if that person, or that person together with other persons with whom he does not deal at arm's length, controlled the corporation directly or indirectly in any manner whatever immediately after the time the share was issued,

- (iv) where subsection 1 or 2 of section 79 has been applicable in respect of any disposition of property (other than a disposition after the 6th day of May, 1974 and before the 19th day of November, 1974) to the corporation before the particular time, the amount, if any, by which,

- (A) the amount by which any increase, by virtue of the disposition, in the paid-up capital of the corporation exceeds any increase, by virtue of the disposition, in the value of its assets (determined as though the value of any property so transferred were its cost to the corporation for the purposes of this Part and as though this Part were read without reference to subsection 5 of section 79) less its liabilities,

exceeds

- (B) the amount by which any increase, by virtue of the disposition, in the paid-up capital of the corporation exceeds any increase, by virtue of the disposition, in the value of its assets less its liabilities, and

- (iva) where the particular time is after the 18th day of November, 1974 and where at any time before the particular time the corporation issued any shares of its capital stock as consideration for the purchase of shares of the capital stock of a second corporation and,

- (A) at any time before those shares were so issued, any particular person or the group of persons to whom those shares were issued,

1. controlled the second corporation, directly or indirectly in any manner whatever, or

2. beneficially owned shares of the capital stock of the second corporation representing more than 50 per cent of its paid-up capital, and

(B) at any time before the particular time, the particular person or group of persons referred to in sub-subclause A,

1. controlled the corporation directly or indirectly in any manner whatever,
2. beneficially owned shares of the capital stock of the corporation representing more than 50 per cent of its paid-up capital, or
3. held an amount of debt payable by the corporation that exceeded the paid-up capital of the corporation, at a time when shares of the capital stock of the corporation representing more than 50 per cent of its paid-up capital were beneficially owned by,

- i. that particular person,

- ii. that group of persons,

- iii. persons related to that particular person or any member of that group of persons, or

- iv. any combination of persons referred to in this paragraph,

all amounts each of which is an amount in respect of any shares so issued at any given time equal to the amount, if any, by which the lesser of,

(C) subject to subsection 6, the increase in the paid-up capital of the corporation by virtue of the issue of those shares, on the assumption that clause c applied on the issue of those shares, and

(D) the amount, if any, by which the aggregate of the increase in the paid-up capital of the corporation by virtue of the issue of those shares, on the assumption that clause *c* applied on the issue of those shares, and the fair market value at that time of any other consideration given by the corporation at that time for the purchase of the shares of the second corporation exceeds the lesser of,

1. the paid-up capital limit of the second corporation at that time or on the 18th day of November, 1974 where that day is later, and
2. the aggregate of all amounts each of which is the paid-up capital at that time of each share of the second corporation so purchased at that time, on the assumption that clause *c* applied at that time,

exceeds the aggregate of,

(E) the amount of any dividend that the corporation is deemed by virtue of subsection 1 of section 78 to have paid as a result of the issue of those shares and

(F) the amount determined under subclause iv in respect of the corporation as a result of the issue of those shares,

exceeds the aggregate of,

s. 83 (1) (d) (vi),
amended

(4) Subclause vi of clause *d* of subsection 1 of the said section 83 is amended by striking out "iii, iv and iv.1" in the second line and inserting in lieu thereof "to x".

s. 83 (1) (d) (ix),
amended

(5) Subclause ix of clause *d* of subsection 1 of the said section 83 is amended by inserting after "clause *a*" in the sixth line "or *c*".

- (6) Clause 1 of subsection 1 of the said section 83, as amended ^{s. 83 (1) (1), re-enacted} by the Statutes of Ontario, 1973, chapter 157, section 24, is repealed and the following substituted therefor:

- (1) "1971 capital surplus on hand" of a corporation at any particular time after the 6th day of May, 1974, means the amount, if any, by which the aggregate of,
- (i) the tax equity of the corporation at the end of its 1971 fiscal year,
 - (ii) subject to subsection 5, all amounts each of which is an amount in respect of a capital property of the corporation owned by it on December 31, 1971 and disposed of by it after that date and before the particular time equal to the amount, if any, by which the lesser of its fair market value on the day fixed by proclamation for the purposes of subdivision B and the corporation's proceeds of disposition thereof exceeds its actual cost to the corporation determined without reference to *The Corporations Tax Application Rules, 1972*, other than subsections 15, 17 and 21 to 27 of section 26 thereof,
 - (iii) all amounts each of which is an amount in respect of a capital property owned by it at the end of its 1971 fiscal year or acquired by it thereafter and disposed of by the corporation before 1972, equal to the amount, if any, by which the corporation's proceeds of disposition thereof exceeds its actual cost to the corporation determined without reference to *The Corporations Tax Application Rules, 1972*,
 - (iv) all amounts each of which is an amount in respect of a dividend received by the corporation on a share of the capital stock of another corporation after 1971 and before the particular time, which amount was, by virtue of subsection 1 of section 77, not included in computing the income of the corporation by virtue of this Subdivision, minus such portion, if any, of that amount as was payable out of the other corporation's tax-paid undistributed surplus on hand, and

(v) all amounts each of which is an amount in respect of an eligible capital amount, within the meaning given to that expression by subsection 1 of section 18, in respect of a business carried on by the corporation that became payable to the corporation in a fiscal year commencing after the time the corporation last became a private corporation and ending before the particular time, equal to the amount, if any, by which,

(A) the amount that the eligible capital amount would be but for the provisions of the *Corporations Tax Application Rules, 1972*, relating to section 18,

exceeds

(B) the aggregate of

1. the eligible capital amount, and
2. where the amount in respect of an eligible capital amount is received as consideration for the disposition of, or for allowing the expiry of, a government right, within the meaning given to that expression by the *Corporations Tax Application Rules, 1972*, such amount as is included in respect thereof in the tax equity of the corporation at the end of its 1971 fiscal year by virtue of subclause iia of clause h,

(vi) all amounts each of which is an amount that became payable to the corporation after the end of its 1971 fiscal year and before 1972 in respect of a property, owned by it at the end of its 1971 fiscal year or acquired by it thereafter and disposed of by it before 1972, that would have been eligible capital property if it had been disposed of after 1971, equal to the amount, if any, by which the amount that became payable exceeds any amount included in respect of that property in the tax equity of the corporation at the end of its 1971 fiscal year by virtue of subclause iia of clause h,

(vii) all amounts each of which is an amount equal to the amount, if any, by which,

(A) the aggregate of all amounts that have become due to the corporation before the particular time in respect of the disposition after 1971 of a property owned by the corporation on the 31st day of December, 1971 that is a property referred to in clause *b* of subsection 2 of section 59,

exceeds

(B) the relevant percentage, within the meaning given to that expression by subsection 4 of section 59, of the amount receivable by the corporation in respect of that disposition,

(viii) all amounts each of which is an amount receivable in respect of a property referred to in clause *b* of subsection 2 of section 59 owned by the corporation at the end of its 1971 fiscal year or acquired by it thereafter and disposed of by it before 1972,

(ix) all amounts each of which is an amount deducted by virtue of clause *b* of subsection 1 or 2 of section 31*a* in computing the income of the corporation for a fiscal year ending before the particular time,

(x) the amount, if any, by which,

(A) the proceeds of any life insurance policy received by the corporation after the end of its 1971 fiscal year and before 1972 as the result of the death of any person whose life was insured under the policy,

exceeds

(B) the aggregate of,

1. all amounts included in the tax equity of the corporation at the end of its 1971 fiscal year in respect of the policy, and

2. all amounts paid as or on account of premiums paid under the policy by the corporation after the end of its 1971 fiscal year and before 1972, and

- (xi) all amounts determined under subclauses vii and x of clause *d* in respect of the corporation at the particular time,

exceeds the aggregate of,

- (xii) the paid-up capital of the corporation at the end of its 1971 fiscal year in respect of all of the shares of its capital stock,

- (xiii) the amount that the corporation's undistributed income on hand, within the meaning given to that expression by the *Income Tax Act* (Canada) as it read in its application to the 1971 fiscal year, would be at the end of its 1971 fiscal year if,

- (A) that Act as it so read were read without reference to subparagraph iii of paragraph *a* of subsection 1 of section 82 thereof,

- (B) references in paragraph *a* of subsection 1 of section 82 of that Act, except clause A of subparagraph vii thereof, to "1917" were read as references to "1950", and

- (C) no amount were allowed as a deduction under subparagraph ii of paragraph *a* of subsection 1 of section 82 of that Act as it read in its application to that year that was not deductible in computing the corporation's income for the 1971 or any previous fiscal year for the purposes of Part I of that Act as it read in its application to that year, but would have been deductible in computing its income for the 1971 fiscal year if that Act as it read in its application to that year had been read without reference to any restriction on the quantum of any deduction thereunder,

- (xiv) subject to subsection 5, all amounts each of which is an amount in respect of a capital property, other than depreciable property, of the corporation owned by it on the 31st day of December, 1971 and disposed of by it after that date and before the particular time equal to the amount, if any, by which its actual cost to the corporation determined without reference to *The Corporations Tax Application Rules, 1972*, other than subsections 15, 17, and 21 to 27 of section 26 thereof, exceeds the greater of the fair market value of the property on the day fixed by proclamation for the purposes of subdivision B and the corporation's proceeds of disposition thereof,
 - (xv) all amounts each of which is an amount in respect of a capital property, other than depreciable property, owned by it at the end of its 1971 fiscal year or acquired by it thereafter and disposed of by it before 1972, equal to the amount, if any, by which its actual cost to the corporation determined without reference to *The Corporations Tax Application Rules, 1972* exceeds the corporation's proceeds of disposition thereof,
 - (xvi) all amounts determined under subclauses iii and iv *a* of clause *d* in respect of the corporation at the particular time,
 - (xvii) where the particular time is after the 18th day of November, 1974, all amounts determined under subclause iv of clause *d* in respect of the corporation at the particular time, and,
 - (xviii) all amounts each of which is an amount in respect of a dividend that became payable by the corporation before the particular time, equal to the portion, if any, thereof payable out of its 1971 capital surplus on hand.
- (7) The said section 83 is further amended by adding thereto the following subsections: s. 83,
amended
- (4) For the purposes of subclause vi of clause *d* and subclauses ii and iii of clause *l* of subsection 1, the actual cost of depreciable property that was acquired by a corporation before the commencement of its 1949 fiscal year that is Deemed
capital cost
of certain
depreciable
property

R.S.C. 1952,
c. 148

Rules
concerning
the 1971
capital
surplus on
hand and
paid-up
capital
deficiency

1970-71,
c. 63 (Can.)

capital property referred to in those subclauses shall be deemed to be the capital cost of such property to the corporation, within the meaning given to that expression by section 144 of the *Income Tax Act* (Canada) as it read in its application to the 1971 fiscal year.

(5) For the purposes of determining the 1971 capital surplus on hand or paid-up capital deficiency of a corporation at any particular time after the 6th day of May, 1974, the following rules apply:

- (a) the amount referred to in subclauses ii and xiv of clause 1 of subsection 1 in respect of a capital property of the corporation shall be deemed to be nil, where the property disposed of is,
 - (i) a share of the capital stock of a subsidiary corporation referred to in subsection 1 of section 82 that was disposed of on the winding-up of the subsidiary where that winding-up commenced after the 29th day of May, 1973,
 - (ii) a share of the capital stock of another Canadian corporation that was controlled, within the meaning given to that expression by subsection 2 of section 186 of the *Income Tax Act* (Canada), by the corporation immediately before the disposition and that was disposed of by the corporation after 1971 to a person with whom the corporation was not dealing at arm's length immediately after the disposition, other than by a disposition referred to in clause b, or
 - (iii) subject to subsection 21 of section 26 of *The Corporations Tax Application Rules, 1972*, a share of the capital stock of a particular corporation that was disposed of by the corporation after the 6th day of May, 1974, on an amalgamation, within the meaning given to that expression by subsection 1 of section 81, where the corporation controlled, within the meaning given to that expression by subsection 2 of section 186 of the *Income Tax Act* (Canada), both the particular corporation immediately before the amalgamation and the new corporation immediately after the amalgamation; and
- (b) where another corporation that is a Canadian corporation owned a capital property on the 31st day

of December, 1971 and subsequently disposed of it to the corporation in a transaction to which section 79 applied, the other corporation shall be deemed not to have disposed of that property in the transaction and the corporation shall be deemed to have owned that property on the 31st day of December, 1971 and to have acquired it at an actual cost equal to the actual cost of that property to the other corporation.

(6) Where subclause *iva* of clause *d* of subsection 1 has applied to the issue, prior to the 19th day of November, 1974, of any share of the capital stock of a corporation, for the purpose of sub-subclause C of subclause *iva* of clause *d* of subsection 1, the increase in the paid-up capital of the corporation by virtue of the issue of that share shall, subject to section 78*b*, be deemed to be equal to the amount that would be determined under sub-subclause B of subclause *ii* of clause *c* of subsection 1 in respect of the issue of that share if clause *c* of subsection 1 were applicable at that time.

Reduction
in paid-up
capital
deficiency

44. The said Act is further amended by adding thereto the following section: s. 83*a*,
enacted

83*a*.—(1) For the purposes of paragraph 1 of sub-subclause B of subclause *ii* of clause *c* of subsection 1 of section 83, where a corporation has issued any shares of a particular class of its capital stock in exchange for another share, bond, debenture, mortgage, note or other similar obligation of the corporation, in this subsection referred to as a “convertible property”, the fair market value of the convertible property at the time the shares of the particular class were issued shall be deemed to be an amount equal to,

Paid-up
capital:
special
rules on
conversion
of property

- (*a*) where the convertible property was a share, the amount of the paid-up capital in respect of that share immediately before the exchange; or
- (*b*) where the convertible property was a debt owing by the corporation, the amount of that debt immediately before the exchange.

(2) Where there has been an amalgamation, within the meaning given to that expression by section 81, of two or more corporations, each of which corporations is in this subsection referred to as a “predecessor corporation”, to form one corporate entity, in this subsection referred to as the “new corporation”,

Paid-up
capital in
respect of
amalgama-
tions

- (a) for the purposes of paragraph 1 of sub-subclause B of subclause ii of clause *c* of subsection 1 of section 83, the new corporation shall be deemed to have received no consideration for any shares of its capital stock that were issued on the amalgamation;
- (b) the paid-up capital in respect of any particular class of the capital stock of the new corporation shall, at any particular time after the amalgamation and after the 6th day of May, 1974, be increased by the amount, if any, by which,
 - (i) the aggregate of all amounts each of which is the paid-up capital, immediately before the amalgamation, in respect of a share of the capital stock of a predecessor corporation, other than a share owned by another predecessor corporation,

exceeds

- (ii) the aggregate of all amounts each of which is the paid-up capital, referred to in sub-subclause A of subclause ii of clause *c* of subsection 1 of section 83, immediately after the amalgamation, in respect of a class of shares of the capital stock of the new corporation,

to the extent that that amount has not been included in the paid-up capital of any other class of shares of the capital stock of the new corporation; and

- (c) where the amalgamation occurred prior to the 7th day of May, 1974, the paid-up capital, immediately before the amalgamation, of a share of the capital stock of a predecessor corporation shall, for the purposes of subclause i of clause *b* be determined as though subclauses i and ii of clause *c* of subsection 1 of section 83 applied immediately before the amalgamation.

Paid-up
capital:
where
dividend
paid

(3) Where a corporation has made an election under subsection 1 of section 77 in respect of a dividend on a particular class of shares of the capital stock of the corporation that has, before the 19th day of November, 1974, become payable, or was paid if that event was earlier than the time it became payable, and,

- (a) the portion of the dividend that was payable out of the corporation's 1971 capital surplus on

hand if the paid-up capital of the corporation in respect of any class of shares of its capital stock at the end of its 1971 fiscal year was the amount determined under sub-subclause A of subclause ii of clause *c* of subsection 1 of section 83 in respect of that class at that time,

exceeds

- (b) the portion of the dividend that would have been payable out of the corporation's 1971 capital surplus on hand if the paid-up capital of the corporation in respect of any class of shares of its capital stock at the end of its 1971 fiscal year was the amount determined under subclause ii of clause *c* of subsection 1 of section 83 without reference to this subsection in respect of that class at that time,

notwithstanding any other provision of this Act, the paid-up capital in respect of the particular class of shares at the end of the corporation's 1971 fiscal year and at any time after the 18th day of November, 1974, shall be reduced by the amount, if any, by which the amount referred to in clause *a* exceeds the amount referred to in clause *b*.

45. The said Act is further amended by adding thereto the following section: s. 84a,
enacted

84a. It is hereby declared that the provisions of sections 91, 92, 93, 94 and 95 of the *Income Tax Act* (Canada) shall apply to this Act for the purpose of computing the income for a fiscal year of a corporation resident in Canada. Income of
corporations
from foreign
affiliates
1970-71,
c. 63 (Can.)

- 46.—(1) Section 85 of the said Act, as amended by the Statutes of Ontario, 1973, chapter 157, section 25, is further amended by adding thereto the following subsections: s. 85,
amended

(1a) For the purposes of subsection 1 and sections 90 and 92, Allocation
of share
of income to
retiring
partner

- (a) where the principal activity of a partnership is carrying on a business in Canada and the members thereof have entered into an agreement to allocate a share of the income or loss of the partnership from any source or from sources in a particular place, as the case may be, to any corporation that at any time ceased to be a member of,

(i) the partnership, or

- (ii) a partnership that at any time has ceased to exist or would, but for subsection 1 of section 87 have ceased to exist, and either,

(A) the members thereof, or

(B) the members of another partnership in which, immediately after that time, any of the members referred to in sub-subclause A became members,

have agreed to make such an allocation to the corporation,

that corporation shall be deemed to be a member of the partnership; and

(b) all amounts each of which is an amount equal to the share of the income or loss referred to in this subsection allocated to a corporation from a partnership in respect of a particular fiscal year of the partnership shall, notwithstanding any other provision of this Act, be included in computing the corporation's income for the fiscal year in which that fiscal year of the partnership ends.

Disposal
of right
to share
in income,
etc.

(1b) Where in a fiscal year a corporation that has a right to a share of the income or loss of a partnership under an agreement referred to in subsection 1a disposes of that right,

(a) there shall be included in computing its income for the year the proceeds of the disposition; and

(b) for greater certainty, the cost to the corporation of each property received by it as consideration for the disposition is the fair market value of the property at the time of the disposition.

Deductions

(1c) Where, by virtue of subsection 1a or 1b, an amount has been included in computing a corporation's income for a fiscal year, there may be deducted in computing its income for the year the lesser of,

(a) the amount so included in computing its income for the year; and

(b) the amount, if any, by which the cost to the corporation of the right to a share of the income or loss of a partnership under an agreement referred to in subsection 1a exceeds the aggregate of all amounts in respect of that right that were deductible by virtue of this subsection in computing its income for previous fiscal years.

Right
deemed not
to be capital
property

(1d) For the purposes of this Act, a right to a share of the income or loss of a partnership under an agreement refer-

red to in subsection 1*a* shall be deemed not to be capital property.

(1*e*) Where any activity in Ontario of a partnership in a fiscal year is such that, if it were a corporation, it would be subject to clause *a* or *b* of subsection 2 or 3 of section 2, as the case may be, each corporation that is deemed by clause *a* of subsection 1*a* to be a member of the partnership shall be deemed to be subject to clause *a* or *b* of subsection 2 or 3 of section 2, as the case may be, for that fiscal year.

Members of partnership deemed to have a permanent establishment in Ontario

(2) Subsection 3 of the said section 85, as enacted by the Statutes of Ontario, 1973, chapter 157, section 25, is amended by striking out "or" in the eighth line and by inserting after "36" in the ninth line "or subsection 2 of section 86".

s. 85 (3), amended

47.—(1) Subsection 2 of section 87 of the said Act is repealed.

s. 87 (2), repealed

(2) The said section 87 is amended by adding thereto the following subsection:

s. 87, amended

(5*a*) Where at any particular time after 1971 a Canadian partnership has ceased to exist and within three months after the particular time one, but not more than one, of the persons who were, immediately before the particular time, members of that partnership, carries on by himself the business that was the business of the partnership and continues to use, in the course of the business, any property that was, immediately before the particular time partnership property and that was received by him as proceeds of disposition of his interest in the partnership, and where that one person is a corporation, hereafter in this section referred to as the "proprietor corporation", the following rules apply:

Where partnership business carried on as sole proprietorship

(*a*) the proprietor corporation's proceeds of disposition of its interest in the partnership shall be deemed to be an amount equal to the greater of,

(i) the aggregate of the adjusted cost base to it, immediately before the particular time, of its interest in the partnership, and the cost to it of all interests in the partnership deemed by clause *q* to have been acquired by it at the particular time, and

(ii) the aggregate of,

(A) the cost amount to the partnership, immediately before the particular time, of each property so received by it, and

- (B) the amount of any other proceeds of the disposition of its interest in the partnership received by it;
- (b) the cost to the proprietor corporation of each such property so received by it shall be deemed to be an amount equal to,
- (i) the cost amount to the partnership of the property immediately before that time,
- plus,
- (ii) where the amount determined under subclause i of clause *a* exceeds the amount determined under subclause ii of clause *a*, the amount determined under clause *c* or *d*, as the case may be, in respect of the property;
- (c) the amount determined under this clause in respect of each such property so received by it that is a capital property, other than depreciable property, of the proprietor corporation is such portion of the excess, if any, described in subclause ii of clause *b* as is designated by it in respect of the property, except that,
- (i) in no case shall the amount so designated in respect of any such property exceed the amount, if any, by which the fair market value of the property immediately after the particular time exceeds the cost amount to the partnership of the property immediately before that time, and
- (ii) in no case shall the aggregate of amounts so designated in respect of all such capital properties, other than depreciable property, exceed the excess, if any, described in subclause ii of clause *b*;
- (d) the amount determined under this clause in respect of each such property so received by it that is depreciable property or a property other than a capital property of the proprietor corporation is such portion of,
- (i) the amount, if any, by which the excess, if any, described in subclause ii of clause *b*

exceeds the aggregate of amounts designated by it under clause *c* in respect of all capital properties, other than depreciable property,

as is designated by it in respect of the property, except that,

- (ii) in no case shall the amount so designated in respect of any such property exceed the amount, if any, by which the fair market value of the property immediately after the particular time exceeds the cost amount to the partnership of the property immediately before that time, and
 - (iii) in no case shall the aggregate of amounts so designated in respect of all such properties of the proprietor corporation that are depreciable property or properties other than capital properties, exceed one-half of the amount determined under subclause *i* in respect of the proprietor corporation;
- (*e*) where any such property so received by it was depreciable property of a prescribed class of the partnership and the amount that was the capital cost to the partnership of that property exceeds the amount determined under clause *b* to be the cost to the proprietor corporation of the property, for the purposes of sections 17 and 24 and any regulations made under clause *a* of subsection 1 of section 24,
- (i) the capital cost to the proprietor corporation of the property shall be deemed to be the amount that was the capital cost to the partnership of the property, and
 - (ii) the excess shall be deemed to have been allowed to the proprietor corporation in respect of the property under regulations made under clause *a* of subsection 1 of section 24 in computing income for fiscal years before the acquisition by it of the property;
- (*f*) the partnership shall be deemed to have disposed of each such property for proceeds equal to the cost amount to the partnership of the property immediately before the particular time; and

- (g) where, at the particular time, all other persons who were members of the partnership immediately before that time have disposed of their interests in the partnership to the proprietor corporation, the proprietor corporation shall be deemed at that time to have acquired partnership interests from those other persons and not to have acquired any property that was property of the partnership.

ss. 87a, 87b,
enacted

- 48.** The said Act is further amended by adding thereto the following sections:

Residual
interest in
partnership

87a.—(1) Where, but for this subsection, at any time after 1971 a corporation has ceased to be a member of a partnership of which it was a member immediately before that time, the following rules apply,

- (a) until such time as all its rights (other than a right to a share of the income or loss of the partnership under an agreement referred to in subsection 1a of section 85) to receive any property of or from the partnership in satisfaction of its interest in the partnership immediately before the time that it ceased to be a member of the partnership are satisfied in full, such interest, in this section referred to as a “residual interest”, shall, subject to section 50 but notwithstanding any other section of this Act, be deemed not to have been disposed of by the corporation and to continue to be an interest in the partnership;
- (b) where all of the corporation’s rights described in clause *a* are satisfied in full before the end of the fiscal year of the partnership in which it ceased to be a member thereof, it shall, notwithstanding clause *a*, be deemed not to have disposed of its residual interest until the end of that fiscal year;
- (c) notwithstanding subsection 3 of section 42, where at the end of a fiscal year of the partnership, in respect of a residual interest in the partnership,
 - (i) the aggregate of all amounts required by subsection 2 of section 55 to be deducted in computing the adjusted cost base to the corporation of the residual interest at that time,

exceeds

- (ii) the aggregate of the cost to it of the residual interest determined for the purpose of computing the adjusted cost base to it of that interest at that time and all amounts required by subsection 1 of section 55 to be added to the cost to it of the residual interest in computing the adjusted cost base to it of that interest at that time,

the amount of the excess shall be deemed to be a gain of the corporation for the year from a disposition at that time of that residual interest; and

(d) where a corporation has a residual interest,

- (i) by virtue of clause *b*; it shall, except for the purposes of subsection 3 of section 98, be deemed not to be a member of the partnership, and
- (ii) in any other case, it shall except for the purposes of subsection 3 of section 79, be deemed not to be a member of the partnership.

(2) Where a partnership, in this subsection referred to as the "original partnership", has or would but for subsection 1 of section 87 have ceased to exist at a time when a corporation had rights described in clause *a* of subsection 1 in respect of that partnership and the members of another partnership agree to satisfy all or part of those rights, that other partnership shall, for the purposes of clause *a* of subsection 1, be deemed to be a continuation of the original partnership.

Continuation
of original
partnership

87*b*. Where by virtue of the death of an individual a corporation has acquired a property that was an interest in a partnership to which, immediately before the individual's death, section 87*a* applied,

Transfer
of interest
on death

- (a) the corporation shall be deemed to have acquired a right to receive partnership property and not to have acquired an interest in a partnership;
- (b) the corporation shall be deemed to have acquired the right referred to in clause *a* at a cost equal to the amount determined to be the proceeds of disposition of the interest in the partnership to the deceased individual by virtue of paragraph *a* of subsection 5 of section 70 or paragraph *d* of subsection 6 of section 70, as the case may be, of the *Income Tax Act* (Canada); and

1970-71,
c. 63 (Can.)

(c) section 45 is not applicable to the right.

s. 89 (2) (b),
re-enacted

49. Clause *b* of subsection 2 of section 89 of the said Act is repealed and the following substituted therefor:

(b) the aggregate of,

(i) the cost to the corporation of the interest in the partnership determined for the purpose of computing the adjusted cost base to it of that interest at that time, and

(ii) all amounts required by subsection 1 of section 55 to be added to the cost to it of that interest in computing the adjusted cost base to it of that interest at that time.

s. 96,
amended

50.—(1) Section 96 of the said Act, as amended by the Statutes of Ontario, 1973, chapter 157, section 26, is further amended by adding thereto the following subsection:

Cost of
capital
interest in a
testamentary
trust

(1*a*) For the purposes of subsection 1 and notwithstanding clause *c* of subsection 1 of section 66, the cost to a corporation of a capital interest in a testamentary trust shall be deemed to be,

(a) where the interest was purchased, the cost otherwise determined;

(b) where paragraph *c* of subsection 5 of section 70 of the *Income Tax Act* (Canada) applies, the cost therein determined; and

(c) in any other case, nil.

1970-71,
c. 63 (Can.)

s. 96 (3),
amended

(2) Subsection 3 of the said section 96 is amended by striking out "that proportion" in the ninth line and in the tenth line and inserting in lieu thereof in each instance "the amount".

s. 97 (1) (c),
amended

51. Clause *c* of subsection 1 of section 97 of the said Act, as amended by the Statutes of Ontario, 1973, chapter 157, section 27, is further amended by inserting after "trust" in the second line "other than a trust that is a foreign affiliate of the corporation".

s. 100 (1) (c),
repealed

52.—(1) Clause *c* of subsection 1 of section 100 of the said Act is repealed.

s. 100 (2),
amended

(2) Subsection 2 of the said section 100 is amended by striking out "corporation" in the second line and inserting in lieu thereof "corporation, other than a foreign affiliate of the corporation".

- (3) Subsections 3 and 4 of the said section 100 are repealed s. 100 (3, 4), re-enacted and the following substituted therefor:

(3) Where a corporation owns a share that is a capital Loss on share that is capital property property and receives a taxable dividend or capital dividend in respect of that share, the amount of any loss of the corporation arising from transactions with reference to the share on which the dividend was received shall, unless it is established by the corporation that,

- (a) the corporation owned the share 365 days or longer before the loss was sustained; and
- (b) the corporation did not, at the time the dividend was received, own more than 5 per cent of the issued shares of any class of the capital stock of the corporation from which the dividend was received,

be deemed to be the amount of that loss otherwise determined, minus the aggregate of all amounts received by the corporation in respect of;

- (c) taxable dividends on the share to the extent that the amounts thereof were deductible from the corporation's income for any fiscal year by virtue of this section or subsection 6 of section 138 of the *Income Tax Act* (Canada); or 1970-71, c. 63 (Can.)
- (d) capital dividends on the share.

(4) Where a corporation owns a share that is not a capital Loss on share that is not capital property property and receives a dividend in respect of that share, the amount of any loss of the corporation arising from transactions with reference to the share on which the dividend was received shall, unless it is established by the corporation that,

- (a) it owned the share 365 days or longer before the loss was sustained; and
- (b) it did not, at the time the dividend was received, own more than 5 per cent of the issued shares of any class of the capital stock of the corporation from which the dividend was received,

be deemed to be the amount of that loss otherwise determined, minus the aggregate of all amounts received by it in respect of dividends, other than capital gains dividends within the meaning given to that expression by subsection 1 of section 109, on the share.

Fair
market
value of
share that
is not
capital
property

(4a) Where a corporation owns a share that is not a capital property and receives a dividend in respect of that share, for the purpose of subsection 1 of section 15 the fair market value of the share at any particular time after the 18th day of November, 1974 shall, unless it is established by the corporation that,

(a) it owned the share 365 days or longer before the particular time; and

(b) it did not, at the time the dividend was received, own more than 5 per cent of the issued shares of any class of the capital stock of the corporation from which the dividend was received,

be deemed to be the aggregate of the fair market value of the share at the particular time otherwise determined and all amounts received before the particular time by it in respect of dividends, other than capital gains dividends within the meaning given to that expression by subsection 1 of section 109, on the share.

s. 100,
amended

(4) Section 100 of the said Act is amended by adding thereto the following subsection:

Rules
where
shares
exchanged

(6) Where at a particular time a share, in this subsection referred to as the "new share", has been acquired by a corporation in exchange for another share, in this subsection referred to as the "old share", by means of a transaction to which section 53, 79a, 80 or 81 applies, any reference in subsection 3 to a share shall be deemed to include a reference to the new share and the old share as though they were the same share, except that the aggregate of the amounts to be deducted from a loss otherwise determined on any new share of the corporation, in respect of dividends received by it on the share, shall be deemed to be the aggregate of,

(a) the aggregate of amounts that would be determined under subsection 3 in respect of taxable dividends or capital dividends received by it on the new share only; and

(b) that proportion of the aggregate of all amounts received by it in respect of taxable dividends or capital dividends on all the old shares exchanged at the particular time that,

(i) the adjusted cost base to it of the new share immediately after the exchange,
is of,

(ii) the adjusted cost base to it of all new shares immediately after the exchange.

53. The said Act is further amended by adding thereto the following section: s. 100a,
enacted

100a. It is hereby declared that the provisions of section 113 of the *Income Tax Act* (Canada) shall apply to this Act for the purposes of computing the taxable income for a fiscal year of a corporation resident in Canada. Deduction re
dividends
from foreign
affiliates
1970-71,
c. 63 (Can.)

54. The said Act is further amended by adding the following section: s. 100b,
enacted

100b.—(1) In computing a corporation's taxable income for a fiscal year, there may be deducted the aggregate of amounts (the aggregate of which amounts is hereafter in this subsection referred to as "the amount contributed") that are contributions for the purposes of *The Election Finances Reform Act, 1975* and that are contributed in the fiscal year, and in any previous fiscal year ending after the 12th day of February, 1975 to the extent that such contributions have not already been deducted, by the corporation to registered candidates at an election of a member or members to serve in the Assembly, to registered constituency associations or to registered parties, provided that, Election
contributions
1975, c. 12

(a) subject to subsection 3, such deduction shall not exceed the least of,

(i) the amount contributed, and

(ii) its taxable income computed without reference to this section, and

(iii) \$4,000; and

(b) payment of each amount that is included in the amount contributed is proven by filing with the Minister receipts that are signed by a recorded agent of the registered candidate, registered constituency association or registered party, as the case may be, and that contain the information prescribed to be shown on such receipts.

(2) In this section,

Interpre-
tation

(a) "recorded agent" means a person on record with the Commission on Election Contributions and Expenses as being authorized to accept contributions on behalf of a political party, constituency association or candidate registered under *The Election Finances Reform Act, 1975*;

(b) "registered candidate" with respect to an election of a member or members to serve in the Assembly, means a person who has been registered as a candidate for such election by the Commission on Election Contributions and Expenses and whose name has not been deleted from the register of candidates maintained by the Commission with respect to such election;

1975, c. 12

(c) "registered constituency association" means a registered constituency association within the meaning given to that expression by *The Election Finances Reform Act, 1975*;

(d) "registered party" means a registered party within the meaning given to that expression by *The Election Finances Reform Act, 1975*.

Corporations
to which s. 103
applicable

(3) In respect of a corporation to which section 103 is applicable, the amount deductible under clause *a* of subsection 1 is the aggregate of,

(a) the amount which would otherwise be deducted under clause *a* of subsection 1; and

(b) that proportion of the amount determined under clause *a* that,

(1) the taxable income of the corporation that is earned in jurisdictions other than Ontario (as computed for the purposes of section 103 and without reference to this section),

is to

(ii) the amount by which the taxable income of the corporation exceeds the amount referred to in subclause i.

s. 101 (a) (iv),
amended

55.—(1) Subclause iv of clause *a* of section 101 of the said Act is amended by striking out "and" in the eleventh line.

s. 101 (a) (v),
re-enacted

(2) Subclause v of clause *a* of the said section 101 is repealed and the following substituted therefor:

(v) proceeds of disposition that become receivable by it in the fiscal year in respect of the disposition of a property that is a Canadian resource property or that would have been such a property if the property had been

acquired by it after 1971, to the extent that those proceeds were not included in computing its income from a business carried on by it in Canada,

- (vi) amounts required by subsection 1a of section 17 to be included in computing its income for the year in respect of dispositions of timber resource properties to the extent that those amounts were not included in computing its income from a business carried on by it in Canada,
- (vii) the amount, if any, by which any amount required by subsection 1b of section 85 to be included in computing its income for the year as proceeds of the disposition of a right to a share of the income or loss under an agreement referred to in clause a of subsection 1a of section 85 exceeds the amount in respect of that right that would, if the corporation were liable to taxation by virtue of subsection 1 of section 2 throughout the fiscal year, be deductible under subsection 1c of section 85 in computing its income for the year.

(3) Clause b of the said section 101, as amended by the Statutes of Ontario, 1973, chapter 157, section 28, is further amended by inserting after "property" in the fifth line "or an interest therein". s. 101 (b),
amended

(4) The said section 101 is amended by adding thereto the following subsection: s. 101,
amended

(2) For the purposes of this section, a property described in subparagraphs i to ix of paragraph b of subsection 1 of section 115 of the *Income Tax Act* (Canada) shall be deemed to include an option in respect of such property whether or not such property is in existence. Property
deemed to
include
option
1970-71,
c. 63 (Can.)

56. Section 105 of the said Act is repealed.

s. 105,
repealed

57. Subsection 2 of section 106a of the said Act, as enacted by the Statutes of Ontario, 1974, chapter 75, section 7, is amended by striking out "\$50,000" in the fifth line and inserting in lieu thereof "\$100,000".

s. 106a (2),
amended

58. Clause a of subsection 5 of section 110 of the said Act is repealed and the following substituted therefor:

s. 110 (5) (a),
re-enacted

(a) "Canadian property" means,

(i) property of a corporation that would be taxable Canadian property if at no time in the year the corporation had been resident in Canada, and

(ii) any other property not being foreign property within the meaning given to that expression by section 206 of the *Income Tax Act* (Canada).

1970-71,
c. 63 (Can.)

s. 112,
amended

59. Section 112 of the said Act is amended by adding thereto the following subsection:

Patronage
dividends

(7) For the purposes of this section, where,

(a) a person has sold or delivered a quantity of goods or products to a marketing board established by or pursuant to a law of Canada or of a province;

(b) the marketing board has sold or delivered the same quantity of goods or products of the same class, grade or quality to a corporation of which the person is a member; and

(c) the corporation has credited that person with an amount based on the quantity of goods or products of that class, grade or quality sold or delivered to it by the marketing board,

the quantity of goods or products referred to in clause *c* shall be deemed to have been sold or delivered by that person to the corporation and to have been acquired by the corporation from that person.

s. 114 (3),
re-enacted

60.—(1) Subsection 3 of section 114 of the said Act is repealed and the following substituted therefor:

Amount
paid in
respect of
member's
share deemed
paid as
interest

(3) Notwithstanding any other provisions of this Act, any amount paid or payable by a credit union to a member thereof in respect of his share in the credit union, other than any such amount paid or payable as or on account of a reduction of the paid-up capital, redemption, acquisition or cancellation by the credit union of the member's share to the extent of the paid-up capital of his share, shall be deemed to have been paid or payable, as the case may be, by the credit union as interest and, when received by the member, to have been received by him as interest.

Application
of s. 78

(3a) Subsections 2, 3 and 4 of section 78 do not apply to deem a dividend to have been paid by a corporation to any of its shareholders, or to deem any of the shareholders of a

corporation to have received a dividend on any shares of the capital stock of the corporation, if at the time the dividend would, but for this subsection, be deemed by subsection 2, 3, or 4 of section 78 to have been so paid or received, as the case may be, the corporation was a credit union.

(2) Clause *a* of subsection 5 of the said section 114 is amended <sup>s. 114 (5) (a),
amended</sup> by inserting after "union" in the sixteenth line "of the same class and for this purpose a class includes all members for whom the rates of interest payable in relation to the money borrowed are the same".

(3) Clause *b* of subsection 5 of the said section 114 is repealed <sup>s. 114 (5) (b),
re-enacted</sup> and the following substituted therefor:

(b) "credit union" means a corporation, association or federation incorporated or organized as a credit union or co-operative credit society if,

(i) it derived all or substantially all of its revenues from,

(A) loans made to, or cashing cheques for, members,

(B) bonds or securities of or loans to, or guaranteed by, the Government of Canada or a province, a Canadian municipality, or an agency thereof, or bonds or securities of or loans to a municipal or public body performing a function of government in Canada or an agency thereof,

(C) bonds of a corporation, commission or association not less than 90 per cent of the shares or capital of which was owned by the Government of Canada or a province or by a municipality in Canada,

(D) loans to or deposits with a bank to which the *Bank Act* (Canada) or the *Quebec Savings Banks Act* (Canada) applies, or loans to or deposits with a corporation licensed or otherwise authorized under a law of Canada or a province to carry on in Canada the business of offering to the public its services as trustee,

R.S.C. 1970,
cc. B-1, B-4

- (E) charges, fees and dues levied against members or members of members, or
- (F) loans made to or deposits with a credit union or co-operative credit society of which it is a member, or
- (ii) all or substantially all the members thereof were corporations, associations or federations,
 - (A) incorporated as credit unions or co-operative credit societies, all of which derived all or substantially all of their revenues from the sources described in subclause i or all of whose shares are owned by credit unions, co-operatives or a combination thereof,
 - (B) incorporated, organized or registered under, or governed by a law of Canada or a province with respect to co-operatives, or
 - (C) incorporated or organized for charitable purposes,
- or were corporations, associations or federations no part of the income of which was payable to, or otherwise available for the personal benefit of, any shareholder or member thereof.

s. 117a,
enacted

- 61.** The said Act is further amended by adding thereto the following section:

Deemed not
to be a
private
corporation

117a. Notwithstanding any other provision of this Act, an insurance corporation, other than a life insurance corporation, that would but for this section be a private corporation shall be deemed not to be a private corporation except for the purposes of section 106a.

s. 120,
amended

- 62.** Section 120 of the said Act is amended by adding thereto the following subsection:

Property of
a trust
governed by
a revoked
plan

(9a) Where a trust governed by a revoked plan,

- (a) disposes of property to a corporation for a consideration less than the fair market value of the property at the time of the transaction, or for no consideration; or

- (b) acquires property from a corporation for a consideration greater than the fair market value of the property at the time of the transaction,

the difference between such fair market value and the consideration, if any, shall be deemed to be an amount received by the corporation from a trustee under the plan and that amount shall be included in the corporation's income for a fiscal year.

- 63.**—(1) Subclause iii of clause *e* of subsection 1 of section 122 of the said Act is amended by adding “or” at the end of sub-subclause A, by striking out sub-subclauses B, C and D and by substituting therefor the following:

(B) a gift to any donee described in clause *a* or *b* of subsection 1 of section 98,

- (2) Clause *i* of subsection 1 of the said section 122, as re-enacted by the Statutes of Ontario, 1973, chapter 42, section 9, is amended by adding at the end thereof “unless the proprietor, member or shareholder was a club, society or association the primary purpose and function of which was the promotion of amateur athletics in Canada”.

- (3) Clause *b* of subsection 6 of the said section 122 is amended by inserting after “corporation” in the second line “including gifts received from a person described in clause *e* of subsection 1 or paragraph *h* of subsection 1 of section 149 of the *Income Tax Act* (Canada)”.

- (4) Subclause ii of clause *b* of subsection 6 of the said section 122 is amended by inserting after “donor” in the second line “other than a person described in clause *e* of subsection 1 or paragraph *h* of subsection 1 of section 149 of the *Income Tax Act* (Canada)” and by inserting after “person” in the fifth line “other than a person described in clause *e* of subsection 1 or paragraph *h* of subsection 1 of section 149 of the *Income Tax Act* (Canada)”.

- 64.**—(1) Subsections 2 and 3 of section 148 of the said Act are repealed and the following substituted therefor:

- (3) Every corporation on which a tax is imposed by this Act shall pay to the Treasurer of Ontario,

- (a) on or before the fifteenth day of each of the third, fifth, seventh, ninth and eleventh months of the

fiscal year in respect of which the tax is payable and on or before the fifteenth day of the first month of the fiscal year following that in respect of which the tax is payable, an instalment equal to one-sixth of the tax payable as estimated by it at the rates for the fiscal year on,

- (i) its estimated taxable income and other subject of tax for the fiscal year, or
 - (ii) its taxable income and other subject of tax for the immediately preceding fiscal year; and
- (b) the balance, if any, of the tax payable for the fiscal year as estimated by it under subsection 2 of section 145,
- (i) on or before the last day of the third month of the fiscal year following that in respect of which the tax is payable, where an amount was deducted by virtue of section 125 of the *Income Tax Act* (Canada) in computing the tax payable by the corporation under Part 1 of that Act for the immediately preceding fiscal year, or
 - (ii) on or before the last day of the second month of the fiscal year following that in respect of which the tax is payable, in any other case.

1970-71,
c. 63 (Can.)

s. 148 (4),
amended

(2) Subsection 4 of the said section 148 is amended by striking out "Notwithstanding subsections 2 and 3" in the first line and inserting in lieu thereof "Notwithstanding subsection 3" and by striking out "2 or" in the fifth line

s. 149 (2),
amended

65. Subsection 2 of section 149 of the said Act is amended by striking out "2" in the first line.

s. 167 (1),
amended

66.—(1) Subsection 1 of section 167 of the said Act, as amended by the Statutes of Ontario, 1973, chapter 157, section 32 is further amended by striking out "1961" in the amendment of 1973 and inserting in lieu thereof "1967".

s. 167 (2),
amended

(2) Subsection 2 of the said section 167, as amended by the Statutes of Ontario, 1973, chapter 157, section 32, is further amended by striking out "1961" in the amendment of 1973 and inserting in lieu thereof "1967".

- 67.**—(1) Subsections 2 and 9 of section 1, paragraph 38a of subsection 1 of section 1 of the said Act, as enacted by subsection 4 of section 1 of this Act, section 5, subsection 2 of section 8, section 13, subsections 9, 11 and 12 of section 28, section 30, subsection 1 of section 34, sections 37, 61 and 62, and subsections 1, 3 and 4 of section 63 shall be deemed to have come into force on the 1st day of January, 1974 and apply to corporations in respect of all fiscal years ending after 1973. Commence-
ment and
application
- (2) Subsections 3 and 8 of section 1, paragraph 33a of subsection 1 of section 1 of the said Act, as enacted by subsection 4 of section 1 of this Act, subsections 6 to 9 of section 6, subsection 3 of section 7, subsections 8 and 9 of section 8, section 9, subsection 2 of section 15, sections 16, 18 and 21, subsections 2 to 5 and 7 to 12 of section 22, subsections 1, 2, 4 and 5 of section 23, subsections 2, 3 and 8 of section 28, subsection 2 of section 34, subsection 1 of section 43, sections 45, 46, 47, 48, 49, 50 and 51, subsection 2 of section 52, subsection 3 of section 55, sections 58, 59 and 60, and subsection 2 of section 63 shall be deemed to have come into force on the 1st day of January, 1972 and apply to corporations in respect of all fiscal years ending after 1971. Idem
- (3) Sections 32 and 56 come into force on the day this Act receives Royal Assent. Idem
- (4) Subsection 1 of section 1 and section 12 shall be deemed to have come into force on the 1st day of January, 1975 and apply to corporations in respect of all fiscal years ending after 1974. Idem
- (5) Subsection 5 of section 1 shall be deemed to have come into force on the 7th day of May, 1974 and is applicable for the purpose of calculating the paid-up capital of a corporation at the end of its fiscal year ending in 1971 and at any time after the 6th day of May, 1974. Idem
- (6) Subsection 6 of section 1 shall be deemed to have come into force on the 7th day of April, 1975. Idem
- (7) Subsection 7 of section 1 shall be deemed to have come into force on the 1st day of January, 1972 and applies to corporations in respect of all fiscal years ending after 1971. Idem

- Idem (8) Section 2 shall be deemed to have come into force on the 7th day of May, 1974 and applies to corporations in respect of all fiscal years ending after the 6th day of May, 1974.
- Idem (9) Section 3 shall be deemed to have come into force on the 7th day of May, 1974 and applies to corporations in respect of all fiscal years ending after the 6th day of May, 1974.
- Idem (10) Subsection 1 of section 4 shall be deemed to have come into force on the 19th day of November, 1974 and applies to corporations in respect of all fiscal years ending after the 18th day of November, 1974.
- Idem (11) Subsection 2 of section 4 shall be deemed to have come into force on the 8th day of April, 1975 and applies to corporations with respect to all fiscal years that end after the 7th day of April, 1975 except that with respect to the fiscal year that ends after the 7th day of April, 1975 and that includes that day the amount to be determined under clause *o* of subsection 1 of section 16 of the said Act shall be that portion of any amount that becomes receivable in that fiscal year or the fair market value of any property that becomes receivable in that fiscal year that the number of days of that fiscal year that follow the 7th day of April, 1975 bears to the total number of days of that fiscal year.
- Idem (12) Subsection 3 of section 4 shall be deemed to have come into force on the 1st day of January, 1975 and applies to corporations in respect of all fiscal years ending after 1974 and, except in the case of a credit union, any interest that was not included in computing a corporation's income for a fiscal year ending before 1975 but that would have been included in subsection 3 of section 16, as enacted by subsection 3 of section 4 of this Act, had applied shall be included in computing its income for its fiscal year ending in 1975.
- Idem (13) Subsections 1 and 2 of section 6 shall be deemed to have come into force on the 7th day of May, 1974 and apply in respect of timber resource property acquired after the 6th day of May, 1974.
- Idem (14) Subsection 3 of section 6 shall be deemed to have come into force on the 7th day of May, 1974 and applies in respect of amounts that become receivable after the 6th day of May, 1974.

- (15) Subsection 4 of section 6 shall be deemed to have come ^{Idem} into force on the 1st day of January, 1972 and applies to acquisitions of property occurring after the 18th day of November, 1974 and to all fiscal years of corporations ending after 1971 in respect of the repayment on, before or after January 1, 1972 of grants, subsidies or other assistance.
- (16) Subsection 5 of section 6 and subsection 2 of section 7 ^{Idem} shall be deemed to have come into force on the 7th day of May, 1974 and apply to corporations in respect of all fiscal years ending after the 6th day of May, 1974.
- (17) Subsections 10 and 11 of section 6 shall be deemed to ^{Idem} have come into force on the 7th day of May, 1974 and apply in respect of acquisitions of property occurring after the 6th day of May, 1974.
- (18) Subsection 1 of section 7 shall be deemed to have come ^{Idem} into force on the 8th day of April, 1975 and applies to corporations with respect to all fiscal years that end after the 7th day of April, 1975 except that with respect to the fiscal year that ends after the 7th day of April, 1975 and includes that day, the amount paid or payable in the year or the fair market value of property paid in the year shall, for the purposes of clause *n* of subsection 1 of section 22 of the said Act be the aggregate of,
- (a) that portion of the amount determined under that clause as it stood prior to the 8th day of April, 1975, that the number of days of that fiscal year prior to the 8th day of April, 1975 bears to the total number of days of that fiscal year; and
 - (b) that portion of the amount determined under that clause as amended by this Act for that fiscal year that the number of days of that fiscal year that follow the 7th day of April, 1975 bears to the total number of days of that fiscal year.
- (19) Subsection 1 of section 8 shall be deemed to have come ^{Idem} into force on the 19th day of November, 1974 and applies to sales occurring and debts arising after the 18th day of November, 1974.
- (20) Subsections 3, 4, 5, 6 and 7 of section 8 shall be deemed ^{Idem} to have come into force on the 7th day of May, 1974 and apply in respect of dispositions occurring after the 6th day of May, 1974.

- Idem (21) Section 10 shall be deemed to have come into force on the 7th day of May, 1974 and applies to sales of debts occurring after the 6th day of May, 1974.
- Idem (22) Section 11 shall be deemed to have come into force on the 7th day of May, 1974 and applies to sales occurring after the 6th day of May, 1974.
- Idem (23) Section 14 shall be deemed to have come into force on the 7th day of May, 1974 and applies to timber resource property acquired after the 6th day of May, 1974.
- Idem (24) Subsection 1 of section 15 shall be deemed to have come into force on the 7th day of May, 1974 and applies to dispositions occurring after the 6th day of May, 1974.
- Idem (25) Section 17 shall be deemed to have come into force on the 7th day of May, 1974 and applies to amounts that have become receivable after the 6th day of May, 1974.
- Idem (26) Section 19 shall be deemed to have come into force on the 7th day of May, 1974 and applies to extensions or renewals granted after the 6th day of May, 1974.
- Idem (27) Section 20 shall be deemed to have come into force on the 7th day of May, 1974 and applies to exchanges of property occurring after the 6th day of May, 1974.
- Idem (28) Subsection 1 of section 22 shall be deemed to have come into force on the 1st day of January, 1972 and applies in respect of contributions of capital occurring after 1971 in computing the adjusted cost base of a property after 1971.
- Idem (29) Subsection 6 of section 22 shall be deemed to have come into force on the 1st day of January, 1972 and applies in respect of contributions of capital occurring before the 7th day of May, 1974 in computing the adjusted cost base of property after 1971.
- Idem (30) Subsection 13 of section 22 shall be deemed to have come into force on the 19th day of November, 1974 and is applicable for the purpose of computing the adjusted cost base of a property after 1971 in respect of acquisitions of property occurring after the 18th day of November, 1974 and in respect of the repayment after 1971 of grants, subsidies or other assistance.
- Idem (31) Subsection 14 of section 22 and subsection 2 of section 27 shall be deemed to have come into force on the 7th day of May, 1974 and apply in respect of transactions occurring after the 6th day of May, 1974.

- (32) Subsection 3 of section 23 shall be deemed to have come into force on the 19th day of November, 1974 and applies to dispositions of property occurring after the 18th day of November, 1974. Idem
- (33) Sections 24 and 26 shall be deemed to have come into force on the 1st day of January, 1975 and apply to corporations in respect of all fiscal years ending after 1974. Idem
- (34) Section 25 shall be deemed to have come into force on the 7th day of May, 1974 and applies in respect of dispositions occurring after the 6th day of May, 1974. Idem
- (35) Subsection 1 of section 27 shall be deemed to have come into force on the 19th day of November, 1974 and applies to corporations in respect of all fiscal years ending after the 18th day of November, 1974. Idem
- (36) Subsections 1, 4 and 5 of section 28 shall be deemed to have come into force on the 7th day of May, 1974 and apply to corporations in respect of all fiscal years ending after the 6th day of May, 1974. Idem
- (37) Subsections 6 and 7 of section 28 shall be deemed to have come into force on the 7th day of May, 1974 and apply to transactions occurring after the 6th day of May, 1974. Idem
- (38) Subsection 10 of section 28 shall be deemed to have come into force on the 1st day of January, 1974 and applies to corporations in respect of all fiscal years ending after 1973 except that it shall not apply to any right or interest in property of a trust acquired before the 19th day of November, 1974 in respect of which a deduction has been claimed in respect of a fiscal year ending before 1976 under section 63 of the said Act. Idem
- (39) Section 29 shall be deemed to have come into force on the 7th day of May, 1974 and applies in respect of appropriations, dispositions or acquisitions of property occurring after the 6th day of May, 1974. Idem
- (40) Section 31 shall be deemed to have come into force on the 7th day of May, 1974 and applies to exchanges of bonds occurring after the 6th day of May, 1974. Idem
- (41) Section 33 shall be deemed to have come into force on the 8th day of April, 1975 and applies to amounts or property paid or payable after the 7th day of April, 1975. Idem
- (42) Section 35 shall be deemed to have come into force on the 19th day of November, 1974 and applies to dividends deemed to have been paid after the 18th day of November, 1974. Idem

- Idem (43) Section 36 shall be deemed to have come into force on the 19th day of November, 1974 and applies to payments made after the 18th day of November, 1974.
- Idem (44) Section 38 shall be deemed to have come into force on the 7th day of May, 1974 and applies to dispositions of property occurring after the 6th day of May, 1974.
- Idem (45) Section 39, except subsection 3 of section 79*a* of the said Act, as enacted by section 39 of this Act, shall be deemed to have come into force on the 7th day of May, 1974 and applies with respect to transactions occurring after the 6th day of May, 1974.
- Idem (46) Subsection 3 of section 79*a* of the said Act, as enacted by section 39 of this Act, shall be deemed to have come into force on the 1st day of January, 1972 and applies to corporations in respect of all fiscal years ending after 1971.
- Idem (47) Section 40 shall be deemed to have come into force on the 7th day of May, 1974 and applies in respect of dispositions after the 6th day of May, 1974 by a person of shares of any class of the capital stock of a corporation in the course of a reorganization of the capital of the corporation.
- Idem (48) Subsections 1 and 3 of section 41 shall be deemed to have come into force on the 1st day of January, 1972 and apply to amalgamations occurring after 1971.
- Idem (49) Subsections 2 and 4 to 15 of section 41 shall be deemed to have come into force on the 7th day of May, 1974 and apply to amalgamations occurring after the 6th day of May, 1974, except that subsection 8 of section 81 of the said Act, as enacted by subsection 15 of section 41 of this Act, shall be deemed to have come into force on the 1st day of January, 1972 and applies in respect of mergers occurring after 1971.
- Idem (50) Subsections 1 to 7 of section 42 shall be deemed to have come into force on the 7th day of May, 1974 and apply in respect of any winding up occurring after the 6th day of May, 1974, except that subclauses *ia* and *ib* of clause *d* of subsection 1 of section 82 of the said Act, as enacted by subsection 3 of section 42 of this Act, are applicable for the purpose of computing the adjusted cost base of the property after February, 1975.

- (51) Subsection 8 of section 42 shall be deemed to have come ^{Idem} into force on the 1st day of January, 1972 and applies in respect of any winding-up occurring after 1971.
- (52) Subsection 2 of section 43 shall be deemed to have come ^{Idem} into force on the 7th day of May, 1974 and applies for the purpose of computing the paid-up capital of a corporation at the end of its fiscal year ending in 1971 and at any time after the 6th day of May, 1974.
- (53) Subsections 3, 4 and 5 of section 43 shall be deemed to ^{Idem} have come into force on the 7th day of May, 1974 and are applicable for the purpose of computing paid-up capital deficiency after the 6th day of May, 1974.
- (54) Subsection 6 of section 43 shall be deemed to have come ^{Idem} into force on the 7th day of May, 1974 and is applicable in computing 1971 capital surplus on hand after the 6th day of May, 1974.
- (55) Subsection 7 of section 43 shall be deemed to have come ^{Idem} into force on the 7th day of May, 1974 and is applicable in computing paid-up capital deficiency or 1971 capital surplus on hand after the 6th day of May, 1974, except that subsection 4 of section 83 of the said Act, as enacted by subsection 7 of section 43 of this Act, shall be deemed to have come into force on the 1st day of January, 1972 and applies to corporations in respect of all fiscal years ending after 1971.
- (56) Section 44 shall be deemed to have come into force on ^{Idem} the 7th day of May, 1974 and is applicable for the purpose of computing the paid-up capital of a corporation at the end of its fiscal year ending in 1971 and at any time after the 6th day of May, 1974.
- (57) Subsection 1 of section 52 and section 53 shall come ^{Idem} into force on the 1st day of January, 1976 and apply to corporations in respect of all fiscal years ending after 1975.
- (58) Subsections 3 and 4 of section 52 shall be deemed to ^{Idem} have come into force on the 7th day of May, 1974 and apply to losses arising after the 6th day of May, 1974, except that subsection 4a of section 100 of the said Act, as enacted by subsection 3 of section 52 of this Act, is applicable for the purpose of determining the fair market value of a share after the 18th day of November, 1974.

- Idem (59) Section 54 shall be deemed to have come into force at 3:00 o'clock in the afternoon on the 13th day of February, 1975 and applies to corporations in respect of all fiscal years ending after February 12th, 1975.
- Idem (60) Subsections 1, 2 and 4 of section 55 shall be deemed to have come into force on the 7th day of May, 1974.
- Idem (61) Section 57 shall be deemed to have come into force on the 8th day of April, 1975 and applies to corporations in respect of all fiscal years ending after the 7th day of April, 1975, except that with respect to the fiscal year that ends after the 7th day of April, 1975 and that includes that day, the following rules apply:
- (a) determine the deduction under section 106*a* of the said Act as that section stood prior to the 8th day of April, 1975 that, but for the rules made applicable by this section, would be deductible by the corporation for that fiscal year on the assumption that that section was applicable to that fiscal year;
 - (b) determine the proportion of the amount determined under clause *a* that the number of days of the fiscal year prior to the 8th day of April, 1975 bears to the total number of days of the fiscal year;
 - (c) determine the deduction under section 106*a* of the said Act as amended by this Act that, but for the rules made applicable by this Part, would be deductible by the corporation for that fiscal year on the assumption that that section was applicable to that fiscal year.
 - (d) determine the proportion of the amount determined under clause *c* that the number of days of that fiscal year that follow the 7th day of April, 1975 bears to the total number of days of that fiscal year;
 - (e) determine the aggregate of the amounts determined under clauses *b* and *d* in respect of the corporation;
- and the aggregate determined under clause *e* is the amount that is deductible by a corporation, under section 106*a* of the said Act as amended by this Act, for its fiscal year that ends after the 7th day of April, 1975 and that includes that day.
- Idem (62) Sections 64 and 65 shall come into force on the 1st day of August, 1975, and apply to corporations in respect of all fiscal years ending after the 31st day of July, 1975.

(63) Section 66 shall be deemed to have come into force on the ^{Idem} 1st day of January, 1975.

68. This Act may be cited as *The Corporations Tax Amendment Act*, ^{Short title} 1975.

An Act to amend
The Corporations Tax Act, 1972

1st Reading

April 7th, 1975

2nd Reading

April 24th, 1975

3rd Reading

May 2nd, 1975

THE HON. A. K. MEEN
Minister of Revenue

5TH SESSION, 29TH LEGISLATURE, ONTARIO
24 ELIZABETH II, 1975

An Act to amend The Farm Products Marketing Act

THE HON. W. A. STEWART
Minister of Agriculture and Food

EXPLANATORY NOTE

The purpose of the Bill is to provide for control of the production of chicks-for-placement, eggs and hatching eggs and the possession of fowl by means of quota systems.

An Act to amend The Farm Products Marketing Act

HER MAJESTY, by and with the advice and consent of the Legislative Assembly of the Province of Ontario, enacts as follows:

1. *The Farm Products Marketing Act*, being chapter 162 of the Revised Statutes of Ontario, 1970, is amended by adding thereto the following section: s. 21a,
enacted

21a.—(1) In this section,

Interpreta-
tion

- (a) “chicks-for-placement” means female chickens twenty weeks of age or less or any class thereof;
- (b) “eggs” means eggs of a domestic hen other than hatching eggs;
- (c) “fowl” means a domestic hen more than twenty weeks of age;
- (d) “hatching eggs” means eggs of a domestic hen produced for the purpose of hatching into chicks;
- (e) “local board” means The Ontario Egg Producers’ Marketing Board;
- (f) “producing” means,
 - (i) in the case of chicks-for-placement, the provision of housing, feed, water or care therefor and the preparation thereof for sale or for use as fowl, and
 - (ii) in the case of eggs and hatching eggs, the provision of housing, feed, water or care for the fowl that lay such eggs or hatching eggs and the preparation of the eggs or hatching eggs for sale or for hatching, as the case may be.

Regulations
re chicks-
for-
placement,
eggs, hatching
eggs and fowl

(2) The Board may make regulations,

(a) notwithstanding paragraph 3 of subsection 1 of section 8, providing for the refusal to grant a licence for the producing of chicks-for-placement or eggs or hatching eggs for any reason that the Board considers proper;

(b) authorizing the local board,

(i) to require that chicks-for-placement be produced on a quota basis,

(ii) to prohibit any person to whom a quota has not been fixed and allotted for the producing of chicks-for-placement or whose quota has been cancelled from producing any chicks-for-placement,

(iii) to prohibit any person to whom a quota has been fixed and allotted for the producing of chicks-for-placement from producing any chicks-for-placement in excess of such quota, and

(iv) to prohibit any person from producing chicks-for-placement in premises other than premises in respect of which a quota for producing chicks-for-placement has been fixed and allotted to such person;

(c) authorizing the local board,

(i) to fix and allot to persons quotas for producing chicks-for-placement on such basis as the local board considers proper,

(ii) to refuse to fix and allot to any person a quota for producing chicks-for-placement for any reason that the local board considers proper,

(iii) to cancel or reduce, or refuse to increase, a quota fixed and allotted to any person for producing chicks-for-placement for any reason that the local board considers proper and, without limiting the generality of the foregoing, to cancel or reduce any such quota as a penalty where the local board has reasonable grounds for belief that the person to

whom the quota was fixed and allotted has contravened any provision of this Act or the regulations, and

- (iv) to permit any person to whom a quota has been fixed and allotted for the producing of chicks-for-placement to produce any chicks-for-placement in excess of such quota on such terms and conditions as the local board considers proper;

(d) authorizing the local board,

- (i) to require that eggs be produced on a quota basis,
- (ii) to prohibit any person to whom a quota has not been fixed and allotted for the producing of eggs or whose quota has been cancelled from producing any eggs,
- (iii) to prohibit any person to whom a quota has been fixed and allotted for the producing of eggs from producing any eggs in excess of such quota, and
- (iv) to prohibit any person from producing eggs in premises other than premises in respect of which a quota for producing eggs has been fixed and allotted to such person;

(e) authorizing the local board,

- (i) to fix and allot to persons quotas for producing eggs on such basis as the local board considers proper,
- (ii) to refuse to fix and allot to any person a quota for producing eggs for any reason that the local board considers proper,
- (iii) to cancel or reduce, or refuse to increase, a quota fixed and allotted to any person for producing eggs for any reason that the local board considers proper, and, without limiting the generality of the foregoing, to cancel or reduce any such quota as a penalty where the local board has reasonable grounds for belief that the person to whom the quota was fixed and allotted has contravened any provision of this Act or the regulations, and

- (iv) to permit any person to whom a quota has been fixed and allotted for the producing of eggs to produce any eggs in excess of such quota on such terms and conditions as the local board considers proper;

(f) authorizing the local board,

- (i) to require that hatching eggs be produced on a quota basis,
- (ii) to prohibit any person to whom a quota has not been fixed and allotted for the producing of hatching eggs or whose quota has been cancelled from producing any hatching eggs,
- (iii) to prohibit any person to whom a quota has been fixed and allotted for the producing of hatching eggs from producing any hatching eggs in excess of such quota, and
- (iv) to prohibit any person from producing hatching eggs in premises other than premises in respect of which a quota for producing hatching eggs has been fixed and allotted to such person;

(g) authorizing the local board,

- (i) to fix and allot to persons quotas for producing hatching eggs on such basis as the local board considers proper,
- (ii) to refuse to fix and allot to any person a quota for producing hatching eggs for any reason that the local board considers proper,
- (iii) to cancel or reduce, or refuse to increase, a quota fixed and allotted to any person for producing hatching eggs for any reason that the local board considers proper, and, without limiting the generality of the foregoing, to cancel or reduce any such quota as a penalty where the local board has reasonable grounds for belief that the person to whom the quota was fixed and allotted has contravened any provision of this Act or the regulations, and
- (iv) to permit any person to whom a quota has been fixed and allotted for the producing of

hatching eggs to produce any hatching eggs in excess of such quota on such terms and conditions as the local board considers proper;

(h) authorizing the local board,

- (i) to require that fowl be possessed on a quota basis,
- (ii) to prohibit any person to whom a quota has not been fixed and allotted for the possession of fowl or whose quota has been cancelled from possessing any fowl,
- (iii) to prohibit any person to whom a quota has been fixed and allotted for possessing fowl from possessing any fowl in excess of such quota, and
- (iv) to prohibit any person from possessing fowl in premises other than premises in respect of which a quota for possessing fowl has been fixed and allotted to such person;

(i) authorizing the local board,

- (i) to fix and allot to persons quotas for possessing fowl on such basis as the local board considers proper,
- (ii) to refuse to fix and allot to any person a quota for possessing fowl for any reason that the local board considers proper,
- (iii) to cancel or reduce, or refuse to increase, a quota fixed and allotted to any person for possessing fowl for any reason that the local board considers proper, and, without limiting the generality of the foregoing, to cancel or reduce any such quota as a penalty where the local board has reasonable grounds for belief that the person to whom the quota was fixed and allotted has contravened any provision of this Act or the regulations, and
- (iv) to permit any person to whom a quota has been fixed and allotted for possessing fowl to possess any fowl in excess of such quota on such terms and conditions as the local board considers proper.

Regulation
may be
limited

(3) Any regulation made under this section may be limited as to time and place.

Delegation of
powers to
local board

(4) The Board may delegate to the local board such of its powers under clause *a* of subsection 2 as it considers necessary and may at any time terminate such delegation.

Exercise of
powers by
local board

(5) Where the Board authorizes the local board to exercise any of the powers mentioned in subsection 2, the local board, in the exercise of such powers, may make regulations or orders or issue directions.

Actions of
local board
deemed to be
admini-
strative

(6) Everything that is done by the local board under the authority of clause *c*, *e*, *g* or *i* of subsection 2 shall be deemed to be of an administrative and not of a legislative nature.

Powers of
search,
inspection,
etc.

(7) Every person appointed under clause *g* of subsection 1 of section 4 or under a regulation made thereunder may, without a warrant,

(a) stop, enter and search any vehicle;

(b) enter and search any premises, other than a dwelling; and

(c) open and inspect any package or container,

if he has reasonable grounds to believe that any of them contains any chicks-for-placement, eggs, hatching eggs or fowl in respect of which there is or has been a contravention of this Act or the regulations.

Exercise of
power

(8) A person referred to in subsection 7 may use as much force as is necessary for him to exercise the powers conferred upon him by subsection 7.

Commence-
ment

2. This Act comes into force on the day it receives Royal Assent.

Short title

3. This Act may be cited as *The Farm Products Marketing Amendment Act, 1975*.



An Act to amend
The Farm Products Marketing Act

1st Reading

April 8th, 1975

2nd Reading

3rd Reading

THE HON. W. A. STEWART
Minister of Agriculture and Food

(Government Bill)

BILL 37

5TH SESSION, 29TH LEGISLATURE, ONTARIO
24 ELIZABETH II, 1975

An Act to amend The Farm Products Marketing Act

THE HON. W. A. STEWART
Minister of Agriculture and Food

An Act to amend The Farm Products Marketing Act

HER MAJESTY, by and with the advice and consent of the Legislative Assembly of the Province of Ontario, enacts as follows:

1. *The Farm Products Marketing Act*, being chapter 162 of the Revised Statutes of Ontario, 1970, is amended by adding thereto the following section: s. 21a,
enacted

21a.—(1) In this section,

Interpreta-
tion

- (a) “chicks-for-placement” means female chickens twenty weeks of age or less or any class thereof;
- (b) “eggs” means eggs of a domestic hen other than hatching eggs;
- (c) “fowl” means a domestic hen more than twenty weeks of age;
- (d) “hatching eggs” means eggs of a domestic hen produced for the purpose of hatching into chicks;
- (e) “local board” means The Ontario Egg Producers’ Marketing Board;
- (f) “producing” means,
 - (i) in the case of chicks-for-placement, the provision of housing, feed, water or care therefor and the preparation thereof for sale or for use as fowl, and
 - (ii) in the case of eggs and hatching eggs, the provision of housing, feed, water or care for the fowl that lay such eggs or hatching eggs and the preparation of the eggs or hatching eggs for sale or for hatching, as the case may be.

Regulations
re chicks-
for-
placement,
eggs, hatching
eggs and fowl

(2) The Board may make regulations,

(a) notwithstanding paragraph 3 of subsection 1 of section 8, providing for the refusal to grant a licence for the producing of chicks-for-placement or eggs or hatching eggs for any reason that the Board considers proper;

(b) authorizing the local board,

(i) to require that chicks-for-placement be produced on a quota basis,

(ii) to prohibit any person to whom a quota has not been fixed and allotted for the producing of chicks-for-placement or whose quota has been cancelled from producing any chicks-for-placement,

(iii) to prohibit any person to whom a quota has been fixed and allotted for the producing of chicks-for-placement from producing any chicks-for-placement in excess of such quota, and

(iv) to prohibit any person from producing chicks-for-placement in premises other than premises in respect of which a quota for producing chicks-for-placement has been fixed and allotted to such person;

(c) authorizing the local board,

(i) to fix and allot to persons quotas for producing chicks-for-placement on such basis as the local board considers proper,

(ii) to refuse to fix and allot to any person a quota for producing chicks-for-placement for any reason that the local board considers proper,

(iii) to cancel or reduce, or refuse to increase, a quota fixed and allotted to any person for producing chicks-for-placement for any reason that the local board considers proper, and, without limiting the generality of the foregoing, to cancel or reduce any such quota as a penalty where the local board has reasonable grounds for belief that the person to

whom the quota was fixed and allotted has contravened any provision of this Act or the regulations, and

- (iv) to permit any person to whom a quota has been fixed and allotted for the producing of chicks-for-placement to produce any chicks-for-placement in excess of such quota on such terms and conditions as the local board considers proper;

(d) authorizing the local board,

- (i) to require that eggs be produced on a quota basis,
- (ii) to prohibit any person to whom a quota has not been fixed and allotted for the producing of eggs or whose quota has been cancelled from producing any eggs,
- (iii) to prohibit any person to whom a quota has been fixed and allotted for the producing of eggs from producing any eggs in excess of such quota, and
- (iv) to prohibit any person from producing eggs in premises other than premises in respect of which a quota for producing eggs has been fixed and allotted to such person;

(e) authorizing the local board,

- (i) to fix and allot to persons quotas for producing eggs on such basis as the local board considers proper,
- (ii) to refuse to fix and allot to any person a quota for producing eggs for any reason that the local board considers proper,
- (iii) to cancel or reduce, or refuse to increase, a quota fixed and allotted to any person for producing eggs for any reason that the local board considers proper, and, without limiting the generality of the foregoing, to cancel or reduce any such quota as a penalty where the local board has reasonable grounds for belief that the person to whom the quota was fixed and allotted has contravened any provision of this Act or the regulations, and

- (iv) to permit any person to whom a quota has been fixed and allotted for the producing of eggs to produce any eggs in excess of such quota on such terms and conditions as the local board considers proper;

(f) authorizing the local board,

- (i) to require that hatching eggs be produced on a quota basis,
- (ii) to prohibit any person to whom a quota has not been fixed and allotted for the producing of hatching eggs or whose quota has been cancelled from producing any hatching eggs,
- (iii) to prohibit any person to whom a quota has been fixed and allotted for the producing of hatching eggs from producing any hatching eggs in excess of such quota, and
- (iv) to prohibit any person from producing hatching eggs in premises other than premises in respect of which a quota for producing hatching eggs has been fixed and allotted to such person;

(g) authorizing the local board,

- (i) to fix and allot to persons quotas for producing hatching eggs on such basis as the local board considers proper,
- (ii) to refuse to fix and allot to any person a quota for producing hatching eggs for any reason that the local board considers proper,
- (iii) to cancel or reduce, or refuse to increase, a quota fixed and allotted to any person for producing hatching eggs for any reason that the local board considers proper, and, without limiting the generality of the foregoing, to cancel or reduce any such quota as a penalty where the local board has reasonable grounds for belief that the person to whom the quota was fixed and allotted has contravened any provision of this Act or the regulations, and
- (iv) to permit any person to whom a quota has been fixed and allotted for the producing of

hatching eggs to produce any hatching eggs in excess of such quota on such terms and conditions as the local board considers proper ;

(h) authorizing the local board,

- (i) to require that fowl be possessed on a quota basis,
- (ii) to prohibit any person to whom a quota has not been fixed and allotted for the possession of fowl or whose quota has been cancelled from possessing any fowl,
- (iii) to prohibit any person to whom a quota has been fixed and allotted for possessing fowl from possessing any fowl in excess of such quota, and
- (iv) to prohibit any person from possessing fowl in premises other than premises in respect of which a quota for possessing fowl has been fixed and allotted to such person ;

(i) authorizing the local board,

- (i) to fix and allot to persons quotas for possessing fowl on such basis as the local board considers proper,
- (ii) to refuse to fix and allot to any person a quota for possessing fowl for any reason that the local board considers proper,
- (iii) to cancel or reduce, or refuse to increase, a quota fixed and allotted to any person for possessing fowl for any reason that the local board considers proper, and, without limiting the generality of the foregoing, to cancel or reduce any such quota as a penalty where the local board has reasonable grounds for belief that the person to whom the quota was fixed and allotted has contravened any provision of this Act or the regulations, and
- (iv) to permit any person to whom a quota has been fixed and allotted for possessing fowl to possess any fowl in excess of such quota on such terms and conditions as the local board considers proper.

Regulation
may be
limited

(3) Any regulation made under this section may be limited as to time and place.

Delegation of
powers to
local board

(4) The Board may delegate to the local board such of its powers under clause *a* of subsection 2 as it considers necessary and may at any time terminate such delegation.

Exercise of
powers by
local board

(5) Where the Board authorizes the local board to exercise any of the powers mentioned in subsection 2, the local board, in the exercise of such powers, may make regulations or orders or issue directions.

Actions of
local board
deemed to be
admini-
strative

(6) Everything that is done by the local board under the authority of clause *c*, *e*, *g* or *i* of subsection 2 shall be deemed to be of an administrative and not of a legislative nature.

Powers of
search,
inspection,
etc.

(7) Every person appointed under clause *g* of subsection 1 of section 4 or under a regulation made thereunder may, without a warrant,

(a) stop, enter and search any vehicle;

(b) enter and search any premises, other than a dwelling; and

(c) open and inspect any package or container,

if he has reasonable grounds to believe that any of them contains any chicks-for-placement, eggs, hatching eggs or fowl in respect of which there is or has been a contravention of this Act or the regulations.

Exercise of
power

(8) A person referred to in subsection 7 may use as much force as is necessary for him to exercise the powers conferred upon him by subsection 7.

Commence-
ment

2. This Act comes into force on the day it receives Royal Assent.

Short title

3. This Act may be cited as *The Farm Products Marketing Amendment Act, 1975*.

1871. The first of these was the "Theatricals" of the year 1871.

1872. The second of these was the "Theatricals" of the year 1872.

1873. The third of these was the "Theatricals" of the year 1873.

1874. The fourth of these was the "Theatricals" of the year 1874.

1875. The fifth of these was the "Theatricals" of the year 1875.

1876. The sixth of these was the "Theatricals" of the year 1876.

1877. The seventh of these was the "Theatricals" of the year 1877.

1878. The eighth of these was the "Theatricals" of the year 1878.

1879. The ninth of these was the "Theatricals" of the year 1879.

1880. The tenth of these was the "Theatricals" of the year 1880.

An Act to amend
The Farm Products Marketing Act

1st Reading

April 8th, 1975

2nd Reading

April 17th, 1975

3rd Reading

April 17th, 1975

THE HON. W. A. STEWART
Minister of Agriculture and Food

5TH SESSION, 29TH LEGISLATURE, ONTARIO
24 ELIZABETH II, 1975

**An Act to amend
The Ministry of Culture and Recreation Act, 1974**

THE HON. R. WELCH
Minister of Culture and Recreation

EXPLANATORY NOTES

The purpose of the Bill is to effect the transfer of various programs from the Ministry of Colleges and Universities, the Ministry of Treasury, Economics and Intergovernmental Affairs, and the Ministry of Community and Social Services to the new Ministry of Culture and Recreation.

SECTION 1. The new sections 8a to 8e are a re-enactment of sections 6a to 6e of *The Ministry of Community and Social Services Act*. Section 8f will permit the Minister to enter into agreements with the Government of Canada. Section 8g is a re-enactment of section 4 of *The Indian Welfare Services Act*.

An Act to amend The Ministry of Culture and Recreation Act, 1974

HER MAJESTY, by and with the advice and consent of the Legislative Assembly of the Province of Ontario, enacts as follows:

1. *The Ministry of Culture and Recreation Act, 1974*, being ^{ss. 8a-8e, enacted} chapter 120, is amended by adding thereto the following sections:

8a. The Minister shall, on his own initiative and through ^{Citizenship functions of Minister} co-operation with the ministers having charge of the ministries of the public service of Ontario, with the ministers having charge of the departments of the public service of Canada, with municipal councils, with school boards and boards of education, with other organizations and otherwise, in the cause of human betterment, advance and encourage the concept and ideal of full and equal citizenship among the residents of Ontario in order that all may exercise effectively the rights, powers and privileges and fulfil the obligations, duties and liabilities of citizens of Canada within the Province of Ontario.

8b.—(1) The Lieutenant Governor in Council may make ^{Regulations, community programs, etc.} regulations,

- (a) providing for programs with respect to adult education, culture, recreation, camping and physical education;
- (b) governing the granting of municipal recreation directors' interim and permanent certificates and arena managers' certificates;
- (c) authorizing,
 - (i) the council of a municipality or the council of the band to appoint a recreation committee

with the approval of the Minister, or the councils of two or more municipalities or the councils of two or more bands or the council of one or more municipalities and bands to appoint a joint recreation committee with the approval of the Minister,

- (ii) recreation committees or joint recreation committees to appoint directors, assistants and secretaries,
- (iii) joint recreation committees or recreation committees in municipalities or on reserves to appoint area recreation committees and area recreation directors,
- (iv) two or more municipalities or bands to enter into agreements,
- (v) where territory without municipal organization is within the jurisdiction of one board, the board to appoint, with the approval of the Minister, one or more recreation committees for such territory without municipal organization, and
- (vi) where territory without municipal organization is within the jurisdiction of two boards, such boards or a board and the council of one or more bands to appoint, with the approval of the Minister, a joint recreation committee for such territory without municipal organization as may be agreed upon by the two boards or a board and the council of one or more bands, as the case may be,

for the purposes of programs of recreation, and adult education and, for the purposes of this clause, "band", "council of the band", and "reserve" have the same meaning as in the *Indian Act* (Canada) and "board" means a board as defined in *The Education Act, 1974*;

- (d) prescribing the composition of recreation committees, joint recreation committees and area recreation committees, and fixing the number or maximum number of members thereof, for the purpose of programs of recreation;
- (e) prescribing definitions of joint recreation program, joint recreation committee, municipal recreation

program, municipal recreation services, municipal recreation director, assistant municipal recreation director, recreation program, and recreation committee;

- (f) prescribing a definition of "approved maintenance and operating costs" for the purpose of legislative grants for programs of recreation, and requiring that "approved maintenance and operating costs" be subject to the approval of the Minister;
- (g) providing for the apportionment and distribution of moneys appropriated or raised by the Legislature for,
 - (i) programs of adult education, culture, recreation, camping and physical education, and
 - (ii) leadership training camps;
- (h) prescribing the conditions governing the payment of grants for programs of adult education, culture, recreation, camping or physical education under the authority of the Minister, and providing for the approval of the Minister in any condition;
- (i) authorizing the Minister to determine the number of assistants and area community programs in respect of which grants may be paid for programs of recreation;
- (j) authorizing the payment, with the approval of the Minister, of special grants for programs of recreation, and fixing the amounts thereof.

(2) Any regulations made under this section and filed ^{Idem} under *The Regulations Act* before the 30th day of June, ^{R.S.O. 1970, c. 410} 1975 may be made to apply retroactively to a date not earlier than the 1st day of January, 1975.

8c.—(1) The Minister may establish, maintain and conduct camps for leadership training. ^{Leadership training camps}

(2) The cost of the establishment, maintenance and conduct of leadership training camps shall be payable out of the moneys appropriated therefor by the Legislature. ^{Expenses}

8d. The Lieutenant Governor in Council or the Minister may, out of moneys appropriated therefor by the Legislature, direct payment from time to time of grants and contribu- ^{Grants re programs of culture and recreation}

tions for consultation, research and evaluation services with respect to programs involving culture and recreation including community development services and for the provision, encouragement and development of community development programs and programs involving culture and recreation.

Agreements
for the
provision of
programs

8e. The Minister may enter into agreements with organizations, municipalities or other persons or corporations respecting the provision of programs involving culture and recreation including community development programs and facilities and personnel relating thereto upon such terms and conditions as may be agreed, and he may direct, out of moneys appropriated by the Legislature, the payment of such expenditures as are necessary for such purposes.

Agreements

8f. The Minister, with the approval of the Lieutenant Governor in Council, may, on behalf of the Government of Ontario, make agreements with the Crown in right of Canada respecting,

- (a) any matter for the administration of which the Minister is responsible; and
- (b) the payment by Canada to Ontario of any portion of any expenditures made before or after this Act comes into force by Ontario or by any municipality under any Act of Ontario.

Interpre-
tation

R.S.C. 1970,
c. I-6

8g.—(1) In this section, "Indian" means a person who is registered as an Indian or entitled to be registered as an Indian under the *Indian Act* (Canada).

Advisory
committee

(2) The Lieutenant Governor in Council may appoint an advisory committee composed of such number of persons as are considered appropriate to advise the Minister on all matters under this Act and to make recommendations to him from time to time respecting any other matter that may encourage Indians in the development of their independence and promote their integration with the rest of the community.

Reference
to
Minister

- 2.—(1) A reference to the Minister in subsection 1 of section 5 of *The Ministry of Colleges and Universities Act, 1971*, being chapter 66, with respect to the Art Gallery of Ontario and The Royal Ontario Museum shall be deemed to be a reference to the Minister of Culture and Recreation.

Idem

- (2) A reference to the Minister in subsection 2 of the said section 5 shall be deemed to be a reference to the Minister of Culture and Recreation.

SECTION 2. Self-explanatory.

SECTION 3. Self-explanatory.

SECTION 4. Sections 6*a*, 6*b* and 6*c* of *The Ministry of Community and Social Services Act* are re-enacted as sections 8*a*, 8*b* and 8*c* of this Act.

SECTION 5. Section 4 of *The Indian Welfare Services Act* is re-enacted as section 8*g* of this Act.

- 3.—(1) A reference to the Minister in clause *d* of section 4 of *The Ontario Universities Capital Aid Corporation Act*, being chapter 331 of the Revised Statutes of Ontario, 1970, shall be deemed to be a reference to the Minister of Culture and Recreation. ^{Reference to Minister}
- (2) A reference to the Minister in subsection 4 of section 11 of the said Act shall be deemed to be a reference to the Minister of Culture and Recreation. ^{Idem}
- 4.—(1) Section 6*a* of *The Ministry of Community and Social Services Act*, being chapter 120 of the Revised Statutes of Ontario, 1970, as enacted by the Statutes of Ontario, 1972, chapter 1, section 19, is repealed. ^{s. 6*a*, repealed}
- (2) Section 6*b* of the said Act, as enacted by the Statutes of Ontario, 1972, chapter 1, section 19 and amended by 1974, chapter 95, section 4, is repealed. ^{s. 6*b*, repealed}
- (3) Section 6*c* of the said Act, as enacted by the Statutes of Ontario, 1972, chapter 1, section 19, is repealed. ^{s. 6*c*, repealed}
5. Section 4 of *The Indian Welfare Services Act*, being chapter 218 of the Revised Statutes of Ontario, 1970, is repealed. ^{s. 4, repealed}
6. This Act shall be deemed to have come into force on the 1st day of April, 1975. ^{Commencement}
7. This Act may be cited as *The Ministry of Culture and Recreation Amendment Act, 1975*. ^{Short title}

An Act to amend
The Ministry of Culture and
Recreation Act, 1974

1st Reading

April 8th, 1975

2nd Reading

3rd Reading

THE HON. R. WELCH
Minister of Culture and Recreation

(*Government Bill*)

BILL 38

5TH SESSION, 29TH LEGISLATURE, ONTARIO
24 ELIZABETH II, 1975

An Act to amend The Ministry of Culture and Recreation Act, 1974

THE HON. R. WELCH
Minister of Culture and Recreation

**An Act to amend
The Ministry of Culture and Recreation Act, 1974**

HER MAJESTY, by and with the advice and consent of the Legislative Assembly of the Province of Ontario, enacts as follows:

1. *The Ministry of Culture and Recreation Act, 1974*, being ss. 8a-8e,
enacted chapter 120, is amended by adding thereto the following sections:

8a. The Minister shall, on his own initiative and through Citizenship
functions
of Minister co-operation with the ministers having charge of the ministries of the public service of Ontario, with the ministers having charge of the departments of the public service of Canada, with municipal councils, with school boards and boards of education, with other organizations and otherwise, in the cause of human betterment, advance and encourage the concept and ideal of full and equal citizenship among the residents of Ontario in order that all may exercise effectively the rights, powers and privileges and fulfil the obligations, duties and liabilities of citizens of Canada within the Province of Ontario.

8b.--(1) The Lieutenant Governor in Council may make Regulations,
community
programs,
etc. regulations,

- (a) providing for programs with respect to adult education, culture, recreation, camping and physical education;
- (b) governing the granting of municipal recreation directors' interim and permanent certificates and arena managers' certificates;
- (c) authorizing,
 - (i) the council of a municipality or the council of the band to appoint a recreation committee

with the approval of the Minister, or the councils of two or more municipalities or the councils of two or more bands or the council of one or more municipalities and bands to appoint a joint recreation committee with the approval of the Minister,

- (ii) recreation committees or joint recreation committees to appoint directors, assistants and secretaries,
- (iii) joint recreation committees or recreation committees in municipalities or on reserves to appoint area recreation committees and area recreation directors,
- (iv) two or more municipalities or bands to enter into agreements,
- (v) where territory without municipal organization is within the jurisdiction of one board, the board to appoint, with the approval of the Minister, one or more recreation committees for such territory without municipal organization, and
- (vi) where territory without municipal organization is within the jurisdiction of two boards, such boards or a board and the council of one or more bands to appoint, with the approval of the Minister, a joint recreation committee for such territory without municipal organization as may be agreed upon by the two boards or a board and the council of one or more bands, as the case may be,

for the purposes of programs of recreation, and adult education and, for the purposes of this clause, "band", "council of the band", and "reserve" have the same meaning as in the *Indian Act* (Canada) and "board" means a board as defined in *The Education Act, 1974*;

- (d) prescribing the composition of recreation committees, joint recreation committees and area recreation committees, and fixing the number or maximum number of members thereof, for the purpose of programs of recreation;
- (e) prescribing definitions of joint recreation program, joint recreation committee, municipal recreation

program, municipal recreation services, municipal recreation director, assistant municipal recreation director, recreation program, and recreation committee;

- (f) prescribing a definition of "approved maintenance and operating costs" for the purpose of legislative grants for programs of recreation, and requiring that "approved maintenance and operating costs" be subject to the approval of the Minister;
- (g) providing for the apportionment and distribution of moneys appropriated or raised by the Legislature for,
 - (i) programs of adult education, culture, recreation, camping and physical education, and
 - (ii) leadership training camps;
- (h) prescribing the conditions governing the payment of grants for programs of adult education, culture, recreation, camping or physical education under the authority of the Minister, and providing for the approval of the Minister in any condition;
- (i) authorizing the Minister to determine the number of assistants and area community programs in respect of which grants may be paid for programs of recreation;
- (j) authorizing the payment, with the approval of the Minister, of special grants for programs of recreation, and fixing the amounts thereof.

(2) Any regulations made under this section and filed under *The Regulations Act* before the 30th day of June, 1975 may be made to apply retroactively to a date not earlier than the 1st day of January, 1975. Idem
R.S.O. 1970,
c. 410

8c.—(1) The Minister may establish, maintain and conduct camps for leadership training. Leadership
training
camps

(2) The cost of the establishment, maintenance and conduct of leadership training camps shall be payable out of the moneys appropriated therefor by the Legislature. Expenses

8d. The Lieutenant Governor in Council or the Minister may, out of moneys appropriated therefor by the Legislature, direct payment from time to time of grants and contribu- Grants re
programs of
culture and
recreation

tions for consultation, research and evaluation services with respect to programs involving culture and recreation including community development services and for the provision, encouragement and development of community development programs and programs involving culture and recreation.

Agreements
for the
provision of
programs

8e. The Minister may enter into agreements with organizations, municipalities or other persons or corporations respecting the provision of programs involving culture and recreation including community development programs and facilities and personnel relating thereto upon such terms and conditions as may be agreed, and he may direct, out of moneys appropriated by the Legislature, the payment of such expenditures as are necessary for such purposes.

Agreements

8f. The Minister, with the approval of the Lieutenant Governor in Council, may, on behalf of the Government of Ontario, make agreements with the Crown in right of Canada respecting,

- (a) any matter for the administration of which the Minister is responsible; and
- (b) the payment by Canada to Ontario of any portion of any expenditures made before or after this Act comes into force by Ontario or by any municipality under any Act of Ontario.

Interpre-
tation

R.S.C. 1970,
c. 1-6

8g.—(1) In this section, "Indian" means a person who is registered as an Indian or entitled to be registered as an Indian under the *Indian Act* (Canada).

Advisory
committee

(2) The Lieutenant Governor in Council may appoint an advisory committee composed of such number of persons as are considered appropriate to advise the Minister on all matters under this Act and to make recommendations to him from time to time respecting any other matter that may encourage Indians in the development of their independence and promote their integration with the rest of the community.

Reference
to
Minister

2.—(1) A reference to the Minister in subsection 1 of section 5 of *The Ministry of Colleges and Universities Act, 1971*, being chapter 66, with respect to the Art Gallery of Ontario and The Royal Ontario Museum shall be deemed to be a reference to the Minister of Culture and Recreation.

Idem

(2) A reference to the Minister in subsection 2 of the said section 5 shall be deemed to be a reference to the Minister of Culture and Recreation.

- 3.—(1) A reference to the Minister in clause *d* of section 4 of *The Ontario Universities Capital Aid Corporation Act*,^{Reference to Minister} being chapter 331 of the Revised Statutes of Ontario, 1970, shall be deemed to be a reference to the Minister of Culture and Recreation.
- (2) A reference to the Minister in subsection 4 of section 11^{Idem} of the said Act shall be deemed to be a reference to the Minister of Culture and Recreation.
- 4.—(1) Section 6*a* of *The Ministry of Community and Social Services Act*, being chapter 120 of the Revised Statutes of Ontario, 1970, as enacted by the Statutes of Ontario, 1972, chapter 1, section 19, is repealed.^{s. 6*a*, repealed}
- (2) Section 6*b* of the said Act, as enacted by the Statutes of Ontario, 1972, chapter 1, section 19 and amended by 1974, chapter 95, section 4, is repealed.^{s. 6*b*, repealed}
- (3) Section 6*c* of the said Act, as enacted by the Statutes of Ontario, 1972, chapter 1, section 19, is repealed.^{s. 6*c*, repealed}
5. Section 4 of *The Indian Welfare Services Act*, being chapter 218 of the Revised Statutes of Ontario, 1970, is repealed.^{s. 4, repealed}
6. This Act shall be deemed to have come into force on the 1st day of April, 1975.^{Commence-ment}
7. This Act may be cited as *The Ministry of Culture and Recreation Amendment Act, 1975*.^{Short title}

An Act to amend
The Ministry of Culture and
Recreation Act, 1974

1st Reading

April 8th, 1975

2nd Reading

April 29th, 1975

3rd Reading

April 29th, 1975

THE HON. R. WELCH
Minister of Culture and Recreation

5TH SESSION, 29TH LEGISLATURE, ONTARIO
24 ELIZABETH II, 1975

**An Act to amend
The Ministry of Community and Social Services Act**

THE HON. R. WELCH
Minister of Culture and Recreation

EXPLANATORY NOTE

SECTION 6*d* is amended to delete the reference to "community development services", a program which is to be transferred to the new Ministry of Culture and Recreation. The amendment also clarifies that community services will continue to be a function of the Ministry of Community and Social Services and will be eligible for grants under this section.

BILL 39

1975

**An Act to amend
The Ministry of Community and
Social Services Act**

HER MAJESTY, by and with the advice and consent of the Legislative Assembly of the Province of Ontario, enacts as follows:

1. Section 6d of *The Ministry of Community and Social Services Act*, being chapter 120 of the Revised Statutes of Ontario, 1970, as enacted by the Statutes of Ontario, 1972, chapter 56, section 2 and amended by 1972, chapter 149, section 1, is further amended by inserting after "services" in the sixth line "community services" and by striking out "community development services and other social" in the eighth line and inserting in lieu thereof "and other social or community". s. 6d.
amended
2. This Act comes into force on the day it receives Royal Assent. Commence-
ment
3. This Act may be cited as *The Ministry of Community and Social Services Amendment Act, 1975*. Short title

An Act to amend
The Ministry of Community and
Social Services Act

1st Reading

April 8th, 1975

2nd Reading

3rd Reading

THE HON. R. WELCH
Minister of Culture and Recreation

(Government Bill)

BILL 39

5TH SESSION, 29TH LEGISLATURE, ONTARIO
24 ELIZABETH II, 1975

An Act to amend The Ministry of Community and Social Services Act

THE HON. R. WELCH
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BILL 39

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An Act to amend
The Ministry of Community and
Social Services Act

1st Reading

April 8th, 1975

2nd Reading

May 27th, 1975

3rd Reading

May 27th, 1975

THE HON. R. WELCH
Minister of Culture and Recreation

5TH SESSION, 29TH LEGISLATURE, ONTARIO
24 ELIZABETH II, 1975

**An Act to provide for the Payment
of Unconditional Grants**

THE HON. W. D. McKEOUGH
Treasurer of Ontario and Minister of Economics and
Intergovernmental Affairs

T O R O N T O

PRINTED BY J. C. THATCHER, QUEEN'S PRINTER FOR ONTARIO

EXPLANATORY NOTES

1. The Bill consolidates into one Act *The Municipal Unconditional Grants Act, 1974, The Regional Municipal Grants Act* and *The Property Tax Stabilization Act, 1973*.
2. Payments to municipalities in recognition of expenditures for the provision of municipal police services will be increased in 1975 from \$5 to \$8 per capita. Payments to regional municipalities, in recognition of expenditures for the provision of regional police services will be increased from \$7 to \$12 per capita.
3. Changes are made to the general support grant provisions. Each municipality will receive a general support grant equal to 6 per cent of its 1974 net general dollar levy. This replaces the prior system whereby the municipality's grant rate was inversely related to its expenditure growth rate. If a municipality's 1975 general support grant falls below the amount received in 1974 by more than 5 per cent, the municipality will receive 95 per cent of its actual 1974 general support grant entitlement. This provision will ease undue hardship for those municipalities which qualified for a general support grant rate in excess of 6 per cent in 1974. This transitional provision will apply in 1975 only. For the restructured municipalities in the County of Oxford, the grant will be calculated on the basis of 1975 net general dollar levies.
4. Each municipality in the northern part of the Province will receive, in addition to any other grant, a payment equal to 15 per cent of its 1974 net general dollar levy. This rate has been increased from 12 per cent in 1974.
5. Municipalities located in the District of Parry Sound will receive an additional payment equal to 7.5 per cent of their 1974 net general dollar levies.
6. The standard used for resource equalization grants has been raised from \$10,100 to \$10,300 in keeping with the increase in the average per capita equalized assessment in the Province. As a result, relative assessment deficiency will be the amount by which a municipality's per capita equalized assessment falls below the standard of \$10,300. This deficiency, pro-rated at 60 per cent, will be applied to a municipality's 1974 net general dollar levy. For the restructured municipalities in the County of Oxford, the grant will be calculated on the basis of the 1975 net general dollar levies.
7. The fixed mill rate differential of 15 per cent between residential and farm assessment on the one hand, and commercial assessment on the other, will be standardized throughout the Province. In 1975, the impact of this change on residential taxpayers will be limited to an increase of not more than 5 per cent in residential property taxes.

BILL 40

1975

An Act to provide for the Payment of Unconditional Grants

HER MAJESTY, by and with the advice and consent of the Legislative Assembly of the Province of Ontario, enacts as follows:

1.—(1) In this Act,

Interpre-
tation

- (a) “acres in the area municipality” means the area in acres of the municipality, excluding property held in trust for a band or body of Indians and land covered by water, as certified by the Assessment Commissioner or Assessor;
- (b) “area municipality” means an area municipality as defined in any Act establishing a metropolitan, regional or district municipality and in *The County of Oxford Act, 1974*; 1974, c. 57
- (c) “commercial assessment” means the total of,
 - (i) the assessment for real property that is used as a basis for computing business assessment including the assessment for real property that is rented and is occupied or used by the Crown in right of Canada, or any province or any board, commission, corporation, or other agency thereof, or by any municipal or regional corporation or local board thereof,
 - (ii) the business assessment, and
 - (iii) the assessment for mineral lands, railway lands, other than railway lands actually in use for residential and farming purposes, and pipelines,

according to the last revised assessment roll;

- (d) "density" means the total number of residential properties in an area municipality divided by the acres in the area municipality correct to two places of decimals;
- (e) "lower tier municipality" means a city, town, village, township or improvement district;
- (f) "merged area" means a merged area as defined in an Act establishing a regional municipality;
- (g) "Minister" means the Treasurer of Ontario and Minister of Economics and Intergovernmental Affairs;
- (h) "net levy" means the net general dollar levy as prescribed;
- (i) "prescribed" means prescribed by the regulations under this Act;
- (j) "regional municipality" means a metropolitan, regional or district municipality as defined in the Act establishing such a municipality and includes the County of Oxford;
- (k) "residential property" means land separately assessed under paragraph 2 of subsection 2 of section 17 of *The Assessment Act* upon which there is a building used or intended to be used as a residence;
- (l) "upper tier municipality" means a county or regional municipality.

R.S.O. 1970,
c. 32

Population

- (2) For the purposes of this Act, population shall be determined in the manner prescribed.

Repeals

2.—(1) The following are repealed:

1. *The Regional Municipal Grants Act*, being chapter 405 of the Revised Statutes of Ontario, 1970;
2. *The Regional Municipal Grants Amendment Act*, 1971, being chapter 73;
3. *The Regional Municipal Grants Amendment Act*, 1972, being chapter 64;
4. *The Regional Municipal Grants Amendment Act*, 1973 (No. 1), being chapter 62;

5. *The Regional Municipal Grants Amendment Act, 1973 (No. 2)*, being chapter 160;
6. *The Regional Municipal Grants Amendment Act, 1974*, being chapter 24;
7. *The Municipal Unconditional Grants Act, 1974*, being chapter 25;
8. *The Municipal Unconditional Grants Amendment Act, 1974*, being chapter 127;
9. *The Property Tax Stabilization Act, 1973*, being chapter 73;
10. *The Property Tax Stabilization Amendment Act, 1974*, being chapter 23.

(2) Any reference in any other Act to an Act repealed under subsection 1 shall be deemed to be a reference to this Act. Reference
in other
Acts

3. In each year there shall be paid to each regional municipality a payment or payments in accordance with the population of the area municipalities within the regional municipality as follows: Per capita
grants

1. \$9 per capita.
2. An amount per capita in accordance with Schedule 1 based on the density of each area municipality.
3. \$12 per capita where a regional municipality is deemed to be a city for the purposes of *The Police Act*. R.S.O. 1970,
c. 351
4. \$8 per capita based on the population of each area municipality providing its own law enforcement by maintaining its own police force or being under contract for the policing of the municipality by the Ontario Provincial Police Force in accordance with *The Police Act*.

4. In each year, the regional municipality shall credit each area municipality with an amount calculated by multiplying the population of the area municipality by the sum of, Credit to
area muni-
cipalities

- (a) \$9;

(b) the per capita amount in relation to the area municipality in accordance with Schedule 1 based on the density of the area municipality;

R.S.O. 1970,
c. 351

(c) \$12 where a regional municipality is deemed to be a city for the purposes of *The Police Act*; or

(d) \$8 in relation to each area municipality to which paragraph 4 of section 3 applies.

Interpre-
tation

5.—(1) For the purposes of this section, “municipality” means a city, town, village, township or improvement district but does not include an area municipality.

Payments to
municipal-
ities

(2) In each year, payments shall be made to each municipality in accordance with the population of that municipality and Schedule 2 of this Act.

Idem

(3) In each year, payments of \$8 per capita shall be made to each municipality providing its own law enforcement by maintaining its own police force, or being under contract for the policing of the municipality by the Ontario Provincial Police Force in accordance with *The Police Act*.

Interpre-
tation

6.—(1) For the purposes of this section, “municipality” means a city, town, village, township, improvement district, county or regional municipality.

Minister may
make grants
or loans

(2) Where the Minister is satisfied that property taxes in a municipality may be unduly increased by reason of a substantial loss of revenue that had previously been available to a municipality as a result of,

(a) a change in legislation;

(b) an unforeseen commitment imposed on a municipality; or

(c) circumstances beyond the control of the municipal council and of an unusual or exceptional nature,

the Minister may, by order, make a grant or a loan to such municipality under such terms and conditions as the Minister considers necessary in the circumstances.

Payments to
municipal-
ities

(3) There shall be paid to each municipality set out in column 1 of Schedule 3,

(a) in the year 1975, the sum set opposite the name of the municipality in column 2; and

- (b) in the year 1976, the sum, if any, set opposite the name of the municipality in column 3.

7.—(1) In this section,

Interpre-
tation

- (a) "net county levy" means the amount required for county purposes including the sums required for any board, commission or other body, apportioned to each lower tier municipality by the county;
- (b) "net lower tier levy" means the amount required for lower tier purposes under section 307 of *The Municipal Act* including the sums required for any board, commission or other body excluding school purposes and sums included in the net regional levy or net county levy; R.S.O. 1970,
c. 284
- (c) "net regional levy" means the amount required for general regional purposes including the sums required for any board, commission or other body but excluding school purposes apportioned to each area municipality and reduced by the amount credited to each area municipality under section 4;
- (d) "rateable property" includes business and other assessment made under *The Assessment Act*; R.S.O. 1970,
c. 32
- (e) "residential and farm assessment" means the total assessment for real property according to the last revised assessment roll except the assessments for real property mentioned in subclauses i and iii of clause c of subsection 1 of section 1;
- (f) "special lower tier levy" means an amount which is not included in the net lower tier levy, and excludes amounts required for school purposes and sums included in the net regional levy, net county levy and special regional levy;
- (g) "special regional levy" means an amount apportioned by a regional municipality to one or more area municipalities that is not included in the net regional levy and excludes amounts required for school purposes.

(2) Each lower tier municipality shall levy, in accordance ^{Levy} with subsection 3, separate rates as applicable on commercial assessment and on residential and farm assessment in each year in respect of the,

- (a) net regional levy;
- (b) net county levy;
- (c) net lower tier levy;
- (d) special regional levy; and
- (e) special lower tier levy.

Determina-
tion of
rates

(3) The rates to be levied in each year for each separate levy specified in subsection 2,

- (a) on residential and farm assessment shall be 85 per cent of the rates to be levied on commercial assessment; and
- (b) on commercial assessment shall be determined by multiplying the amount required for each such levy by 1,000 and dividing the product by 85 per cent of the sum of the residential and farm assessment plus the commercial assessment.

Minister
may make
grants

(4) Where in 1975 in any lower tier municipality, the mill rates that would have been levied on residential and farm property for all purposes, other than school purposes, would increase more than 5 per cent over the mill rates which would have been levied on such property had the method of calculating such mill rates not changed, the Minister may, by order, make a grant to such municipality under such terms and conditions as the Minister considers necessary in the circumstances.

Apportion-
ment among
merged
areas

(5) Notwithstanding subsection 2, the net regional levy and the net lower tier levy charged against the whole rateable property of an area municipality shall be apportioned among the merged areas of such area municipality in the proportion that the total equalized assessment of each merged area bears to the total equalized assessment of the area municipality both according to the last revised assessment roll as equalized by the Ministry of Revenue.

Determina-
tion of
rates

(6) The rates to be levied in each merged area shall be determined in accordance with subsection 3.

Transi-
tional
grants

8. The Lieutenant Governor in Council may, to minimize changes in the incidence of local taxation and to promote the development of services on a regional basis, by order, upon such terms and conditions as he considers appropriate, provide for payments to be made,

- (a) to The Regional Municipality of Niagara, The Regional Municipality of Ottawa-Carleton, The Regional Municipality of York, The District Municipality of Muskoka and to any area municipality therein for a period not exceeding five years from the 23rd day of July, 1971;
- (b) to any other regional municipality or lower tier municipality affected by any amalgamation, annexation or change in the responsibility for the provision of services, for a period not exceeding five years after the effective date of such amalgamation, annexation or change in responsibility; and
- (c) notwithstanding clause a, to the Township of Goulbourn, the Township of Rideau, and the Township of West Carleton for a period not exceeding five years from the 1st day of January, 1974.

9. In each year there shall be paid a resource equalization grant to each lower tier municipality whose equalized assessment per capita in the preceding year is below \$10,300, or such other amount as may be prescribed, in an amount based, in the manner prescribed, on the proportion that 60 per cent of such deficiency of equalized assessment per capita bears to \$10,300 as applied to the net levy of the lower tier municipality.

Resource
equalization
grants

10.—(1) For the purposes of any general or special Act, the equalized assessment of a lower tier municipality shall for apportionment purposes, other than for school purposes or county purposes or for apportionment between merged areas, be increased by an amount that would have produced the amount of the resource equalization grant entitlement in the preceding year by the taxation of real property at the rate determined by dividing the total taxes levied for all purposes, other than school purposes, on commercial assessment in the preceding year, by the total equalized commercial assessment for the preceding year, times 1,000.

Equalized
assessment
of lower
tier municipality
deemed
increased

(2) In determining the taxes levied on commercial assessment under subsection 1, there shall be excluded the taxes added to the collector's roll under section 43 of *The Assessment Act* and the assessment on which such taxes are levied.

Exclusion
of taxes
added
under
R.S.O. 1970,
c. 32, s. 43

(3) In each year, the clerk of every lower tier municipality that received a resource equalization grant in the preceding year shall provide, on or before the 1st day of April, to the upper tier municipality, a statement of the

Statement

amount of the resource equalization grant in respect of the preceding year and the amount to be added to the equalized assessment of the municipality under subsection 1, provided that in 1975, lower tier municipalities in the County of Oxford shall use the estimated 1975 resource equalization grant.

Ascription
of resource
equalization
grants

11.—(1) The lower tier municipality shall, in each year, ascribe a portion of the resource equalization grant entitlement in that year to the upper tier municipality.

Deter-
mination
of portion
ascribed

(2) For the purposes of subsection 1, the portion shall be the ratio of taxes levied on commercial assessment in the preceding year for the upper tier municipality to the total taxes levied on commercial assessment in the preceding year for all purposes, other than school purposes, provided that for the County of Oxford in 1975, the ratio shall be determined using the estimated current year taxes.

Exclusion of
taxes added
under
R.S.O. 1970,
c. 32, s. 43

(3) In determining the taxes levied on commercial assessment under subsection 2, there shall be excluded taxes levied on such assessment added to the collector's roll under section 43 of *The Assessment Act*.

Amount
ascribed
to be
deducted

12. The amount ascribed to the upper tier municipality under section 11 shall be deducted from the requisition of the upper tier municipality for the year and the net amount shall be the amount included in the levy of the lower tier municipality for purposes of section 302 of *The Municipal Act* and section 7 in each year.

R.S.O. 1970,
c. 284

Preliminary
apportion-
ment

13.—(1) Notwithstanding section 10, a preliminary apportionment may be made in any year and an adjustment to the preliminary apportionment shall be made when the statement under subsection 3 of section 10 is received.

Idem

(2) In the case of the County of Oxford, a preliminary apportionment may be made in 1975 notwithstanding section 10 and an adjustment to that apportionment shall be made when the amount of the 1975 resource equalization grant entitlement for all area municipalities in the County is determined.

Equalized
assessment
of lower
tier mun-
icipality
deemed
increased

14.—(1) In the case of the County of Oxford, in 1975, and for the purposes of section 10, the equalized assessment of a lower tier municipality shall for apportionment purposes, other than for school purposes or apportionment between merged areas, be increased by an amount that would have produced the amount of the resource equalization grant entitlement in 1975 by the taxation of real property

at the mill rate determined by dividing the total estimated taxes levied by the lower tier municipality in 1975 for all purposes other than school purposes on commercial assessment for 1975 by the total equalized commercial assessment for 1975, times 1,000.

(2) In determining the taxes levied on commercial assessment under subsection 1, there shall be excluded the taxes added to the collector's roll under section 43 of *The Assessment Act* and the assessment on which such taxes are based.

Exclusion
of taxes
added under
R.S.O. 1970,
c. 32, s. 43

15. In each year there shall be paid a general support grant to each upper tier municipality and to each lower tier municipality in an amount equal to 6 per cent, or such other percentage as may be prescribed, of the net levy of the municipality.

General
support
grant

16. In each year there shall be paid a special support grant of 15 per cent, or such other percentage as may be prescribed, of the net levy of each upper tier municipality and each lower tier municipality, to each such municipality that is situate in the northern part of Ontario.

Special
support
grant

17. In each year there shall be paid a special support grant of 7.5 per cent, or such other percentage as may be prescribed, of the net levy of any lower tier municipality, to such municipality situated in a territorial district, no part of which is situated within the northern part of Ontario.

Idem

18. The moneys required for the purposes of this Act shall be paid out of the moneys appropriated therefor by the Legislature.

Moneys

19.—(1) The Lieutenant Governor in Council may make regulations,

Regulations

- (a) prescribing anything that in this Act may be prescribed by regulation;
- (b) prescribing the conditions under which grants shall be made;
- (c) prescribing the method of calculating grants made under this Act and the conditions attached thereto;
- (d) prescribing the manner in which grants are to be made under this Act;
- (e) prescribing the manner in which population is to be determined for the purposes of this Act;

(f) prescribing the forms and records to be used for the purposes of this Act or the regulations;

(g) prescribing the area that is to comprise the northern part of Ontario.

Regulations
may be
retroactive

(2) Regulations under subsection 1 may be made retroactive to a date not earlier than the 1st day of January, 1975.

Commence-
ment

20. This Act shall be deemed to have come into force on the 1st day of January, 1975.

Short title

21. This Act may be cited as *The Ontario Unconditional Grants Act, 1975*.

SCHEDULE 1

DENSITY	AMOUNT PER CAPITA
0.15 and under	\$5.00
Over 0.15 to 0.30	4.00
Over 0.30 to 0.45	3.00
Over 0.45 to 0.60	2.00
Over 0.60 to 0.75	1.00
Over 0.75	Nil

SCHEDULE 2

POPULATION RANGE	RATE OF GRANT	
0 — 5,000	\$6.00 × (Pop.)	
5,001 — 10,000	\$	30,000 + \$6.40 × (Pop. over 5,000)
10,001 — 15,000	\$	62,000 + \$6.60 × (Pop. over 10,000)
15,001 — 20,000	\$	95,000 + \$6.80 × (Pop. over 15,000)
20,001 — 25,000	\$	129,000 + \$7.00 × (Pop. over 20,000)
25,001 — 50,000	\$	164,000 + \$7.20 × (Pop. over 25,000)
50,001 — 75,000	\$	344,000 + \$7.40 × (Pop. over 50,000)
75,001 — 100,000	\$	529,000 + \$7.60 × (Pop. over 75,000)
100,001 — 200,000	\$	719,000 + \$7.80 × (Pop. over 100,000)
200,001 or more	\$	1,499,000 + \$8.00 × (Pop. over 200,000)

SCHEDULE 3

COLUMN 1	COLUMN 2	COLUMN 3
	\$	\$
County of Bruce.....	12,758.00	nil
Village of Hepworth.....	169.00	nil
Village of Lion's Head.....	303.00	nil
Town of Wiarton.....	1,075.00	nil
Town of Albemarle.....	1,352.00	nil
Township of Amabel.....	3,220.00	nil
Township of Eastnor.....	1,564.00	nil
Township of Lindsay.....	810.00	nil
Township of St. Edmund's.....	1,507.00	nil
Village of Havelock.....	2,020.00	nil
Village of Norwood.....	2,160.00	nil
Township of Burleigh and Anstruther.....	2,868.00	1,434.00
Township of Chandos.....	1,387.20	693.60
Township of Galway and Cavendish.....	2,749.20	1,374.60
Township of Harvey.....	4,995.60	2,497.80
Township of Asphodel.....	3,400.00	nil
Township of Belmont and Methuen.....	6,080.00	nil
Township of Dummer.....	4,610.00	nil
Town of Cache Bay.....	28.65	nil
Town of Sturgeon Falls.....	672.98	nil
Township of Caldwell.....	112.72	nil
Township of Field.....	41.37	nil
Township of Springer.....	144.00	nil
The Regional Municipality of Sudbury.....	173,200.00	nil
Town of Kenora.....	57,588.00	nil
Town of Sioux Lookout.....	14,850.00	nil
City of Thunder Bay.....	400.50	nil
County of Hastings.....	24,731.00	nil
Village of Hastings.....	1,700.00	nil
Improvement District of Beardmore.....	4,969.00	nil
United Counties of Prescott and Russell.....	1,058.93	nil

An Act to provide for the
Payment of Unconditional Grants

1st Reading

April 8th, 1975

2nd Reading

3rd Reading

THE HON. W. D. McKEOUGH
Treasurer of Ontario and
Minister of Economics and
Intergovernmental Affairs

(Government Bill)

5TH SESSION, 29TH LEGISLATURE, ONTARIO
24 ELIZABETH II, 1975

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(Reprinted as amended by the Committee of the Whole House)

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1. The Bill consolidates into one Act *The Municipal Unconditional Grants Act, 1974, The Regional Municipal Grants Act and The Property Tax Stabilization Act, 1973.*
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4. Each municipality in the northern part of the Province will receive, in addition to any other grant, a payment equal to 15 per cent of its 1974 net general dollar levy. This rate has been increased from 12 per cent in 1974.
5. Municipalities located in the District of Parry Sound will receive an additional payment equal to 7.5 per cent of their 1974 net general dollar levies.
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R.S.O. 1970,
c. 32

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3. \$12 per capita where a regional municipality is deemed to be a city for the purposes of *The Police Act*. R.S.O. 1970,
c. 351
4. \$8 per capita based on the population of each area municipality providing its own law enforcement by maintaining its own police force or being under contract for the policing of the municipality by the Ontario Provincial Police Force in accordance with *The Police Act*.

4. In each year, the regional municipality shall credit each area municipality with an amount calculated by multiplying the population of the area municipality by the sum of, Credit to
area muni-
cipalities

- (a) \$9;

(b) the per capita amount in relation to the area municipality in accordance with Schedule 1 based on the density of the area municipality;

R.S.O. 1970,
c. 351

(c) \$12 where a regional municipality is deemed to be a city for the purposes of *The Police Act*; or

(d) \$8 in relation to each area municipality to which paragraph 4 of section 3 applies.

Interpre-
tation

5.—(1) For the purposes of this section, “municipality” means a city, town, village, township or improvement district but does not include an area municipality.

Payments to
municipal-
ities

(2) In each year, payments shall be made to each municipality in accordance with the population of that municipality and Schedule 2 of this Act.

Idem

(3) In each year, payments of \$8 per capita shall be made to each municipality providing its own law enforcement by maintaining its own police force, or being under contract for the policing of the municipality by the Ontario Provincial Police Force in accordance with *The Police Act*.

Interpre-
tation

6.—(1) For the purposes of this section, “municipality” means a city, town, village, township, improvement district, county or regional municipality.

Minister may
make grants
or loans

(2) Where the Minister is satisfied that property taxes in a municipality may be unduly increased by reason of a substantial loss of revenue that had previously been available to a municipality as a result of,

(a) a change in legislation;

(b) an unforeseen commitment imposed on a municipality; or

(c) circumstances beyond the control of the municipal council and of an unusual or exceptional nature,

the Minister may, by order, make a grant or a loan to such municipality under such terms and conditions as the Minister considers necessary in the circumstances.

Payments to
municipal-
ities

(3) There shall be paid to each municipality set out in column 1 of Schedule 3,

(a) in the year 1975, the sum set opposite the name of the municipality in column 2; and

- (b) in the year 1976, the sum, if any, set opposite the name of the municipality in column 3.

7.—(1) In this section,

Interpre-
tation

- (a) “net county levy” means the amount required for county purposes including the sums required for any board, commission or other body, apportioned to each lower tier municipality by the county;
- (b) “net lower tier levy” means the amount required for lower tier purposes under section 307 of *The Municipal Act* including the sums required for any board, commission or other body excluding school purposes and sums included in the net regional levy or net county levy; R.S.O. 1970,
c. 284
- (c) “net regional levy” means the amount required for general regional purposes including the sums required for any board, commission or other body but excluding school purposes apportioned to each area municipality and reduced by the amount credited to each area municipality under section 4;
- (d) “rateable property” includes business and other assessment made under *The Assessment Act*; R.S.O. 1970,
c. 32
- (e) “residential and farm assessment” means the total assessment for real property according to the last revised assessment roll except the assessments for real property mentioned in subclauses i and iii of clause c of subsection 1 of section 1;
- (f) “special lower tier levy” means an amount which is not included in the net lower tier levy, and excludes amounts required for school purposes and sums included in the net regional levy, net county levy and special regional levy;
- (g) “special regional levy” means an amount apportioned by a regional municipality to one or more area municipalities that is not included in the net regional levy and excludes amounts required for school purposes.

(2) Each lower tier municipality shall levy, in accordance ^{Levy} with subsection 3, separate rates as applicable on commercial assessment and on residential and farm assessment in each year in respect of the,

- (a) net regional levy;
- (b) net county levy;
- (c) net lower tier levy;
- (d) special regional levy; and
- (e) special lower tier levy.

Determina-
tion of
rates

(3) The rates to be levied in each year for each separate levy specified in subsection 2,

- (a) on residential and farm assessment shall be 85 per cent of the rates to be levied on commercial assessment; and
- (b) on commercial assessment shall be determined by multiplying the amount required for each such levy by 1,000 and dividing the product by 85 per cent of the sum of the residential and farm assessment plus the commercial assessment.

Minister
may make
grants

(4) Where in 1975 in any lower tier municipality, the mill rates that would have been levied on residential and farm property for all purposes, other than school purposes, would increase more than 5 per cent over the mill rates which would have been levied on such property had the method of calculating such mill rates not changed, the Minister may, by order, make a grant to such municipality under such terms and conditions as the Minister considers necessary in the circumstances.

Apportion-
ment among
merged
areas

(5) Notwithstanding subsection 2, the net regional levy and the net lower tier levy charged against the whole rateable property of an area municipality shall be apportioned among the merged areas of such area municipality in the proportion that the total equalized assessment of each merged area bears to the total equalized assessment of the area municipality both according to the last revised assessment roll as equalized by the Ministry of Revenue.

Determina-
tion of
rates

(6) The rates to be levied in each merged area shall be determined in accordance with subsection 3.

Transi-
tional
grants

8. The Lieutenant Governor in Council may, to minimize changes in the incidence of local taxation and to promote the development of services on a regional basis, by order, upon such terms and conditions as he considers appropriate, provide for payments to be made,

- (a) to The Regional Municipality of Niagara, The Regional Municipality of Ottawa-Carleton, The Regional Municipality of York, The District Municipality of Muskoka and to any area municipality therein for a period not exceeding five years from the 23rd day of July, 1971;
- (b) to any other regional municipality or lower tier municipality affected by any amalgamation, annexation or change in the responsibility for the provision of services, for a period not exceeding five years after the effective date of such amalgamation, annexation or change in responsibility; and
- (c) notwithstanding clause *a*, to the Township of Goulbourn, the Township of Rideau, and the Township of West Carleton for a period not exceeding five years from the 1st day of January, 1974.

9. In each year there shall be paid a resource equalization grant to each lower tier municipality whose equalized assessment per capita in the preceding year is below \$10,300, or such other amount as may be prescribed, in an amount based, in the manner prescribed, on the proportion that 60 per cent of such deficiency of equalized assessment per capita bears to \$10,300 as applied to the net levy of the lower tier municipality.

Resource
equalization
grants

10.—(1) For the purposes of any general or special Act, the equalized assessment of a lower tier municipality shall for apportionment purposes, other than for school purposes or county purposes or for apportionment between merged areas, be increased by an amount that would have produced the amount of the resource equalization grant entitlement in the preceding year by the taxation of real property at the rate determined by dividing the total taxes levied for all purposes, other than school purposes, on commercial assessment in the preceding year, by the total equalized commercial assessment for the preceding year, times 1,000.

Equalized
assessment
of lower
tier municipality
deemed
increased

(2) In determining the taxes levied on commercial assessment under subsection 1, there shall be excluded the taxes added to the collector's roll under section 43 of *The Assessment Act* and the assessment on which such taxes are levied.

Exclusion
of taxes
added
under
R.S.O. 1970,
c. 32, s. 43

(3) In each year, the clerk of every lower tier municipality that received a resource equalization grant in the preceding year shall provide, on or before the 1st day of April, to the upper tier municipality, a statement of the

Statement

amount of the resource equalization grant in respect of the preceding year and the amount to be added to the equalized assessment of the municipality under subsection 1, provided that in 1975, lower tier municipalities in the County of Oxford shall use the estimated 1975 resource equalization grant.

Ascription
of resource
equalization
grants

11.—(1) The lower tier municipality shall, in each year, ascribe a portion of the resource equalization grant entitlement in that year to the upper tier municipality.

Deter-
mination
of portion
ascribed

(2) For the purposes of subsection 1, the portion shall be the ratio of taxes levied on commercial assessment in the preceding year for the upper tier municipality to the total taxes levied on commercial assessment in the preceding year for all purposes, other than school purposes, provided that for the County of Oxford in 1975, the ratio shall be determined using the estimated current year taxes.

Exclusion of
taxes added
under
R.S.O. 1970,
c. 32, s. 43

(3) In determining the taxes levied on commercial assessment under subsection 2, there shall be excluded taxes levied on such assessment added to the collector's roll under section 43 of *The Assessment Act*.

Amount
ascribed
to be
deducted

R.S.O. 1970,
c. 284

12. The amount ascribed to the upper tier municipality under section 11 shall be deducted from the requisition of the upper tier municipality for the year and the net amount shall be the amount included in the levy of the lower tier municipality for purposes of section 302 of *The Municipal Act* and section 7 in each year.

Preliminary
apportion-
ment

13.—(1) Notwithstanding section 10, a preliminary apportionment may be made in any year and an adjustment to the preliminary apportionment shall be made when the statement under subsection 3 of section 10 is received.

Idem

(2) In the case of the County of Oxford, a preliminary apportionment may be made in 1975 notwithstanding section 10 and an adjustment to that apportionment shall be made when the amount of the 1975 resource equalization grant entitlement for all area municipalities in the County is determined.

Equalized
assessment
of lower
tier muni-
cipality
deemed
increased

14.—(1) In the case of the County of Oxford, in 1975, and for the purposes of section 10, the equalized assessment of a lower tier municipality shall for apportionment purposes, other than for school purposes or apportionment between merged areas, be increased by an amount that would have produced the amount of the resource equalization grant entitlement in 1975 by the taxation of real property

at the mill rate determined by dividing the total estimated taxes levied by the lower tier municipality in 1975 for all purposes other than school purposes on commercial assessment for 1975 by the total equalized commercial assessment for 1975, times 1,000.

(2) In determining the taxes levied on commercial assessment under subsection 1, there shall be excluded the taxes added to the collector's roll under section 43 of *The Assessment Act* and the assessment on which such taxes are based.

Exclusion
of taxes
added under
R.S.O. 1970,
c. 32, s. 43

15. In each year there shall be paid a general support grant to each upper tier municipality and to each lower tier municipality in an amount equal to 6 per cent, or such other percentage as may be prescribed, of the net levy of the municipality.

General
support
grant

16. In each year there shall be paid a special support grant of 15 per cent, or such other percentage as may be prescribed, of the net levy of each upper tier municipality and each lower tier municipality, to each such municipality that is situate in the northern part of Ontario.

Special
support
grant

17. In each year there shall be paid to the Township of Chisholm, the Improvement District of Cameron and any lower tier municipality situated in the Territorial District of Parry Sound, a special support grant of 7.5 per cent, or such other percentage as may be prescribed, of the net levy of such municipality.

Idem

18. The moneys required for the purposes of this Act shall be paid out of the moneys appropriated therefor by the Legislature.

Moneys

19.—(1) The Lieutenant Governor in Council may make regulations,

Regulations

- (a) prescribing anything that in this Act may be prescribed by regulation;
- (b) prescribing the conditions under which grants shall be made;
- (c) prescribing the method of calculating grants made under this Act and the conditions attached thereto;
- (d) prescribing the manner in which grants are to be made under this Act;
- (e) prescribing the manner in which population is to be determined for the purposes of this Act;

(f) prescribing the forms and records to be used for the purposes of this Act or the regulations;

(g) prescribing the area that is to comprise the northern part of Ontario.

Regulations
may be
retroactive

(2) Regulations under subsection 1 may be made retroactive to a date not earlier than the 1st day of January, 1975.

Commence-
ment

20. This Act shall be deemed to have come into force on the 1st day of January, 1975.

Short title

21. This Act may be cited as *The Ontario Unconditional Grants Act, 1975*.

SCHEDULE 1

DENSITY	AMOUNT PER CAPITA
0.15 and under	\$5.00
Over 0.15 to 0.30	4.00
Over 0.30 to 0.45	3.00
Over 0.45 to 0.60	2.00
Over 0.60 to 0.75	1.00
Over 0.75	Nil

SCHEDULE 2

POPULATION RANGE	RATE OF GRANT	
0 — 5,000	\$6.00 × (Pop.)	
5,001 — 10,000	\$ 30,000 + \$6.40 × (Pop. over 5,000)	
10,001 — 15,000	\$ 62,000 + \$6.60 × (Pop. over 10,000)	
15,001 — 20,000	\$ 95,000 + \$6.80 × (Pop. over 15,000)	
20,001 — 25,000	\$ 129,000 + \$7.00 × (Pop. over 20,000)	
25,001 — 50,000	\$ 164,000 + \$7.20 × (Pop. over 25,000)	
50,001 — 75,000	\$ 344,000 + \$7.40 × (Pop. over 50,000)	
75,001 — 100,000	\$ 529,000 + \$7.60 × (Pop. over 75,000)	
100,001 — 200,000	\$ 719,000 + \$7.80 × (Pop. over 100,000)	
200,001 or more	\$ 1,499,000 + \$8.00 × (Pop. over 200,000)	

SCHEDULE 3

COLUMN 1	COLUMN 2	COLUMN 3
	\$	\$
County of Bruce.....	12,758.00	nil
Village of Hepworth.....	169.00	nil
Village of Lion's Head.....	303.00	nil
Town of Wiarton.....	1,075.00	nil
Town of Albemarle.....	1,352.00	nil
Township of Amabel.....	3,220.00	nil
Township of Eastnor.....	1,564.00	nil
Township of Lindsay.....	810.00	nil
Township of St. Edmund's.....	1,507.00	nil
Village of Havelock.....	2,020.00	nil
Village of Norwood.....	2,160.00	nil
Township of Burleigh and Anstruther.....	2,868.00	1,434.00
Township of Chandos.....	1,387.20	693.60
Township of Galway and Cavendish.....	2,749.20	1,374.60
Township of Harvey.....	4,995.60	2,497.80
Township of Asphodel.....	3,400.00	nil
Township of Belmont and Methuen.....	6,080.00	nil
Township of Dummer.....	4,610.00	nil
Town of Cache Bay.....	28.65	nil
Town of Sturgeon Falls.....	672.98	nil
Township of Caldwell.....	112.72	nil
Township of Field.....	41.37	nil
Township of Springer.....	144.00	nil
The Regional Municipality of Sudbury.....	173,200.00	nil
Town of Kenora.....	57,588.00	nil
Town of Sioux Lookout.....	14,850.00	nil
City of Thunder Bay.....	400.50	nil
County of Hastings.....	24,731.00	nil
Village of Hastings.....	1,700.00	nil
Improvement District of Beardmore.....	4,969.00	nil
United Counties of Prescott and Russell.....	1,058.93	nil

An Act to provide for the
Payment of Unconditional Grants

1st Reading

April 8th, 1975

2nd Reading

April 17th, 1975

3rd Reading

THE HON. W. D. McKEOUGH
Treasurer of Ontario and
Minister of Economics and
Intergovernmental Affairs

(Reprinted as amended by the
Committee of the Whole House)

BILL 40

5TH SESSION, 29TH LEGISLATURE, ONTARIO
24 ELIZABETH II, 1975

An Act to provide for the Payment of Unconditional Grants

THE HON. W. D. MCKEOUGH
Treasurer of Ontario and Minister of Economics and
Intergovernmental Affairs

TORONTO

PRINTED BY J. C. THATCHER, QUEEN'S PRINTER FOR ONTARIO

BILL 40

1975

An Act to provide for the Payment of Unconditional Grants

HER MAJESTY, by and with the advice and consent of the Legislative Assembly of the Province of Ontario, enacts as follows:

1.—(1) In this Act,

Interpre-
tation

- (a) “acres in the area municipality” means the area in acres of the municipality, excluding property held in trust for a band or body of Indians and land covered by water, as certified by the Assessment Commissioner or Assessor;
- (b) “area municipality” means an area municipality as defined in any Act establishing a metropolitan, regional or district municipality and in *The County of Oxford Act, 1974*; 1974, c. 57
- (c) “commercial assessment” means the total of,
 - (i) the assessment for real property that is used as a basis for computing business assessment including the assessment for real property that is rented and is occupied or used by the Crown in right of Canada, or any province or any board, commission, corporation, or other agency thereof, or by any municipal or regional corporation or local board thereof,
 - (ii) the business assessment, and
 - (iii) the assessment for mineral lands, railway lands, other than railway lands actually in use for residential and farming purposes, and pipelines,

according to the last revised assessment roll;

- (d) "density" means the total number of residential properties in an area municipality divided by the acres in the area municipality correct to two places of decimals;
- (e) "lower tier municipality" means a city, town, village, township or improvement district;
- (f) "merged area" means a merged area as defined in an Act establishing a regional municipality;
- (g) "Minister" means the Treasurer of Ontario and Minister of Economics and Intergovernmental Affairs;
- (h) "net levy" means the net general dollar levy as prescribed;
- (i) "prescribed" means prescribed by the regulations under this Act;
- (j) "regional municipality" means a metropolitan, regional or district municipality as defined in the Act establishing such a municipality and includes the County of Oxford;
- (k) "residential property" means land separately assessed under paragraph 2 of subsection 2 of section 17 of *The Assessment Act* upon which there is a building used or intended to be used as a residence;
- (l) "upper tier municipality" means a county or regional municipality.

R.S.O. 1970,
c. 32

Population

- (2) For the purposes of this Act, population shall be determined in the manner prescribed.

Repeals

- 2.—(1)** The following are repealed:

1. *The Regional Municipal Grants Act*, being chapter 405 of the Revised Statutes of Ontario, 1970;
2. *The Regional Municipal Grants Amendment Act*, 1971, being chapter 73;
3. *The Regional Municipal Grants Amendment Act*, 1972, being chapter 64;
4. *The Regional Municipal Grants Amendment Act*, 1973 (No. 1), being chapter 62;

5. *The Regional Municipal Grants Amendment Act, 1973 (No. 2)*, being chapter 160;
6. *The Regional Municipal Grants Amendment Act, 1974*, being chapter 24;
7. *The Municipal Unconditional Grants Act, 1974*, being chapter 25;
8. *The Municipal Unconditional Grants Amendment Act, 1974*, being chapter 127;
9. *The Property Tax Stabilization Act, 1973*, being chapter 73;
10. *The Property Tax Stabilization Amendment Act, 1974*, being chapter 23.

(2) Any reference in any other Act to an Act repealed under subsection 1 shall be deemed to be a reference to this Act. Reference
in other
Acts

3. In each year there shall be paid to each regional municipality a payment or payments in accordance with the population of the area municipalities within the regional municipality as follows: Per capita
grants

1. \$9 per capita.
2. An amount per capita in accordance with Schedule 1 based on the density of each area municipality.
3. \$12 per capita where a regional municipality is deemed to be a city for the purposes of *The Police Act*. R.S.O. 1970,
c. 351
4. \$8 per capita based on the population of each area municipality providing its own law enforcement by maintaining its own police force or being under contract for the policing of the municipality by the Ontario Provincial Police Force in accordance with *The Police Act*.

4. In each year, the regional municipality shall credit each area municipality with an amount calculated by multiplying the population of the area municipality by the sum of, Credit to
area mun-
icipalities

(a) \$9;

(b) the per capita amount in relation to the area municipality in accordance with Schedule 1 based on the density of the area municipality;

R.S.O. 1970,
c. 351

(c) \$12 where a regional municipality is deemed to be a city for the purposes of *The Police Act*; or

(d) \$8 in relation to each area municipality to which paragraph 4 of section 3 applies.

Interpre-
tation

5.—(1) For the purposes of this section, “municipality” means a city, town, village, township or improvement district but does not include an area municipality.

Payments to
municipalities

(2) In each year, payments shall be made to each municipality in accordance with the population of that municipality and Schedule 2 of this Act.

Idem

(3) In each year, payments of \$8 per capita shall be made to each municipality providing its own law enforcement by maintaining its own police force, or being under contract for the policing of the municipality by the Ontario Provincial Police Force in accordance with *The Police Act*.

Interpre-
tation

6.—(1) For the purposes of this section, “municipality” means a city, town, village, township, improvement district, county or regional municipality.

Minister may
make grants
or loans

(2) Where the Minister is satisfied that property taxes in a municipality may be unduly increased by reason of a substantial loss of revenue that had previously been available to a municipality as a result of,

(a) a change in legislation;

(b) an unforeseen commitment imposed on a municipality; or

(c) circumstances beyond the control of the municipal council and of an unusual or exceptional nature,

the Minister may, by order, make a grant or a loan to such municipality under such terms and conditions as the Minister considers necessary in the circumstances.

Payments to
municipalities

(3) There shall be paid to each municipality set out in column 1 of Schedule 3,

(a) in the year 1975, the sum set opposite the name of the municipality in column 2; and

- (b) in the year 1976, the sum, if any, set opposite the name of the municipality in column 3.

7.—(1) In this section,

Interpre-
tation

- (a) “net county levy” means the amount required for county purposes including the sums required for any board, commission or other body, apportioned to each lower tier municipality by the county;
- (b) “net lower tier levy” means the amount required for lower tier purposes under section 307 of *The Municipal Act* including the sums required for any board, commission or other body excluding school purposes and sums included in the net regional levy or net county levy; R.S.O. 1970,
c. 284
- (c) “net regional levy” means the amount required for general regional purposes including the sums required for any board, commission or other body but excluding school purposes apportioned to each area municipality and reduced by the amount credited to each area municipality under section 4;
- (d) “rateable property” includes business and other assessment made under *The Assessment Act*; R.S.O. 1970,
c. 32
- (e) “residential and farm assessment” means the total assessment for real property according to the last revised assessment roll except the assessments for real property mentioned in subclauses i and iii of clause c of subsection 1 of section 1;
- (f) “special lower tier levy” means an amount which is not included in the net lower tier levy, and excludes amounts required for school purposes and sums included in the net regional levy, net county levy and special regional levy;
- (g) “special regional levy” means an amount apportioned by a regional municipality to one or more area municipalities that is not included in the net regional levy and excludes amounts required for school purposes.

(2) Each lower tier municipality shall levy, in accordance ^{Levy} with subsection 3, separate rates as applicable on commercial assessment and on residential and farm assessment in each year in respect of the,

- (a) net regional levy;
- (b) net county levy;
- (c) net lower tier levy;
- (d) special regional levy; and
- (e) special lower tier levy.

Determina-
tion of
rates

(3) The rates to be levied in each year for each separate levy specified in subsection 2,

- (a) on residential and farm assessment shall be 85 per cent of the rates to be levied on commercial assessment; and
- (b) on commercial assessment shall be determined by multiplying the amount required for each such levy by 1,000 and dividing the product by 85 per cent of the sum of the residential and farm assessment plus the commercial assessment.

Minister
may make
grants

(4) Where in 1975 in any lower tier municipality, the mill rates that would have been levied on residential and farm property for all purposes, other than school purposes, would increase more than 5 per cent over the mill rates which would have been levied on such property had the method of calculating such mill rates not changed, the Minister may, by order, make a grant to such municipality under such terms and conditions as the Minister considers necessary in the circumstances.

Apportion-
ment among
merged
areas

(5) Notwithstanding subsection 2, the net regional levy and the net lower tier levy charged against the whole rateable property of an area municipality shall be apportioned among the merged areas of such area municipality in the proportion that the total equalized assessment of each merged area bears to the total equalized assessment of the area municipality both according to the last revised assessment roll as equalized by the Ministry of Revenue.

Determina-
tion of
rates

(6) The rates to be levied in each merged area shall be determined in accordance with subsection 3.

Transi-
tional
grants

8. The Lieutenant Governor in Council may, to minimize changes in the incidence of local taxation and to promote the development of services on a regional basis, by order, upon such terms and conditions as he considers appropriate, provide for payments to be made,

- (a) to The Regional Municipality of Niagara, The Regional Municipality of Ottawa-Carleton, The Regional Municipality of York, The District Municipality of Muskoka and to any area municipality therein for a period not exceeding five years from the 23rd day of July, 1971;
- (b) to any other regional municipality or lower tier municipality affected by any amalgamation, annexation or change in the responsibility for the provision of services, for a period not exceeding five years after the effective date of such amalgamation, annexation or change in responsibility; and
- (c) notwithstanding clause a, to the Township of Goulbourn, the Township of Rideau, and the Township of West Carleton for a period not exceeding five years from the 1st day of January, 1974.

9. In each year there shall be paid a resource equalization grant to each lower tier municipality whose equalized assessment per capita in the preceding year is below \$10,300, or such other amount as may be prescribed, in an amount based, in the manner prescribed, on the proportion that 60 per cent of such deficiency of equalized assessment per capita bears to \$10,300 as applied to the net levy of the lower tier municipality.

Resource
equalization
grants

10.—(1) For the purposes of any general or special Act, the equalized assessment of a lower tier municipality shall for apportionment purposes, other than for school purposes or county purposes or for apportionment between merged areas, be increased by an amount that would have produced the amount of the resource equalization grant entitlement in the preceding year by the taxation of real property at the rate determined by dividing the total taxes levied for all purposes, other than school purposes, on commercial assessment in the preceding year, by the total equalized commercial assessment for the preceding year, times 1,000.

Equalized
assessment
of lower
tier mun-
cipality
deemed
increased

(2) In determining the taxes levied on commercial assessment under subsection 1, there shall be excluded the taxes added to the collector's roll under section 43 of *The Assessment Act* and the assessment on which such taxes are levied.

Exclusion
of taxes
added
under
R.S.O. 1970,
c. 32, s. 43

(3) In each year, the clerk of every lower tier municipality that received a resource equalization grant in the preceding year shall provide, on or before the 1st day of April, to the upper tier municipality, a statement of the

Statement

amount of the resource equalization grant in respect of the preceding year and the amount to be added to the equalized assessment of the municipality under subsection 1, provided that in 1975, lower tier municipalities in the County of Oxford shall use the estimated 1975 resource equalization grant.

Ascription
of resource
equalization
grants

11.—(1) The lower tier municipality shall, in each year, ascribe a portion of the resource equalization grant entitlement in that year to the upper tier municipality.

Deter-
mination
of portion
ascribed

(2) For the purposes of subsection 1, the portion shall be the ratio of taxes levied on commercial assessment in the preceding year for the upper tier municipality to the total taxes levied on commercial assessment in the preceding year for all purposes, other than school purposes, provided that for the County of Oxford in 1975, the ratio shall be determined using the estimated current year taxes.

Exclusion of
taxes added
under
R.S.O. 1970,
c. 32, s. 43

(3) In determining the taxes levied on commercial assessment under subsection 2, there shall be excluded taxes levied on such assessment added to the collector's roll under section 43 of *The Assessment Act*.

Amount
ascribed
to be
deducted

R.S.O. 1970,
c. 284

12. The amount ascribed to the upper tier municipality under section 11 shall be deducted from the requisition of the upper tier municipality for the year and the net amount shall be the amount included in the levy of the lower tier municipality for purposes of section 302 of *The Municipal Act* and section 7 in each year.

Preliminary
apportion-
ment

13.—(1) Notwithstanding section 10, a preliminary apportionment may be made in any year and an adjustment to the preliminary apportionment shall be made when the statement under subsection 3 of section 10 is received.

Idem

(2) In the case of the County of Oxford, a preliminary apportionment may be made in 1975 notwithstanding section 10 and an adjustment to that apportionment shall be made when the amount of the 1975 resource equalization grant entitlement for all area municipalities in the County is determined.

Equalized
assessment
of lower
tier muni-
cipality
deemed
increased

14.—(1) In the case of the County of Oxford, in 1975, and for the purposes of section 10, the equalized assessment of a lower tier municipality shall for apportionment purposes, other than for school purposes or apportionment between merged areas, be increased by an amount that would have produced the amount of the resource equalization grant entitlement in 1975 by the taxation of real property

at the mill rate determined by dividing the total estimated taxes levied by the lower tier municipality in 1975 for all purposes other than school purposes on commercial assessment for 1975 by the total equalized commercial assessment for 1975, times 1,000.

(2) In determining the taxes levied on commercial assessment under subsection 1, there shall be excluded the taxes added to the collector's roll under section 43 of *The Assessment Act* and the assessment on which such taxes are based.

Exclusion
of taxes
added under
R.S.O. 1970,
c. 32, s. 43

15. In each year there shall be paid a general support grant to each upper tier municipality and to each lower tier municipality in an amount equal to 6 per cent, or such other percentage as may be prescribed, of the net levy of the municipality.

General
support
grant

16. In each year there shall be paid a special support grant of 15 per cent, or such other percentage as may be prescribed, of the net levy of each upper tier municipality and each lower tier municipality, to each such municipality that is situate in the northern part of Ontario.

Special
support
grant

17. In each year there shall be paid to the Township of Chisholm, the Improvement District of Cameron and any lower tier municipality situated in the Territorial District of Parry Sound, a special support grant of 7.5 per cent, or such other percentage as may be prescribed, of the net levy of such municipality.

Idem

18. The moneys required for the purposes of this Act shall be paid out of the moneys appropriated therefor by the Legislature.

Moneys

19.—(1) The Lieutenant Governor in Council may make regulations,

Regulations

- (a) prescribing anything that in this Act may be prescribed by regulation;
- (b) prescribing the conditions under which grants shall be made;
- (c) prescribing the method of calculating grants made under this Act and the conditions attached thereto;
- (d) prescribing the manner in which grants are to be made under this Act;
- (e) prescribing the manner in which population is to be determined for the purposes of this Act;

(f) prescribing the forms and records to be used for the purposes of this Act or the regulations;

(g) prescribing the area that is to comprise the northern part of Ontario.

Regulations
may be
retroactive

(2) Regulations under subsection 1 may be made retroactive to a date not earlier than the 1st day of January, 1975.

Commence-
ment

20. This Act shall be deemed to have come into force on the 1st day of January, 1975.

Short title

21. This Act may be cited as *The Ontario Unconditional Grants Act, 1975*.

SCHEDULE 1

DENSITY	AMOUNT PER CAPITA
0.15 and under	\$5.00
Over 0.15 to 0.30	4.00
Over 0.30 to 0.45	3.00
Over 0.45 to 0.60	2.00
Over 0.60 to 0.75	1.00
Over 0.75	Nil

SCHEDULE 2

POPULATION RANGE	RATE OF GRANT
0 — 5,000	\$6.00 × (Pop.)
5,001 — 10,000	\$ 30,000 + \$6.40 × (Pop. over 5,000)
10,001 — 15,000	\$ 62,000 + \$6.60 × (Pop. over 10,000)
15,001 — 20,000	\$ 95,000 + \$6.80 × (Pop. over 15,000)
20,001 — 25,000	\$ 129,000 + \$7.00 × (Pop. over 20,000)
25,001 — 50,000	\$ 164,000 + \$7.20 × (Pop. over 25,000)
50,001 — 75,000	\$ 344,000 + \$7.40 × (Pop. over 50,000)
75,001 — 100,000	\$ 529,000 + \$7.60 × (Pop. over 75,000)
100,001 — 200,000	\$ 719,000 + \$7.80 × (Pop. over 100,000)
200,001 or more	\$ 1,499,000 + \$8.00 × (Pop. over 200,000)

SCHEDULE 3

COLUMN 1	COLUMN 2	COLUMN 3
	\$	\$
County of Bruce.....	12,758.00	nil
Village of Hepworth.....	169.00	nil
Village of Lion's Head.....	303.00	nil
Town of Wiarton.....	1,075.00	nil
Town of Albemarle.....	1,352.00	nil
Township of Amabel.....	3,220.00	nil
Township of Eastnor.....	1,564.00	nil
Township of Lindsay.....	810.00	nil
Township of St. Edmund's.....	1,507.00	nil
Village of Havelock.....	2,020.00	nil
Village of Norwood.....	2,160.00	nil
Township of Burleigh and Anstruther.....	2,868.00	1,434.00
Township of Chandos.....	1,387.20	693.60
Township of Galway and Cavendish.....	2,749.20	1,374.60
Township of Harvey.....	4,995.60	2,497.80
Township of Asphodel.....	3,400.00	nil
Township of Belmont and Methuen.....	6,080.00	nil
Township of Dummer.....	4,610.00	nil
Town of Cache Bay.....	28.65	nil
Town of Sturgeon Falls.....	672.98	nil
Township of Caldwell.....	112.72	nil
Township of Field.....	41.37	nil
Township of Springer.....	144.00	nil
The Regional Municipality of Sudbury.....	173,200.00	nil
Town of Kenora.....	57,588.00	nil
Town of Sioux Lookout.....	14,850.00	nil
City of Thunder Bay.....	400.50	nil
County of Hastings.....	24,731.00	nil
Village of Hastings.....	1,700.00	nil
Improvement District of Beardmore.....	4,969.00	nil
United Counties of Prescott and Russell.....	1,058.93	nil

An Act to provide for the
Payment of Unconditional Grants

1st Reading

April 8th, 1975

2nd Reading

April 17th, 1975

3rd Reading

April 17th, 1975

THE HON. W. D. McKEOUGH
Treasurer of Ontario and
Minister of Economics and
Intergovernmental Affairs

5TH SESSION, 29TH LEGISLATURE, ONTARIO
24 ELIZABETH II, 1975

An Act to amend The Municipal Act

THE HON. W. D. McKEOUGH
Treasurer of Ontario and Minister of Economics
and Intergovernmental Affairs

EXPLANATORY NOTES

SECTION 1. The effect of the re-enactment is to repeal the provisions of section 302 that set out the method of calculating the rates to be levied on residential and farm assessment and on commercial assessment; these matters will now be dealt with in *The Ontario Unconditional Grants Act, 1975*.

SECTION 2.—Subsections 1 to 4. These amendments provide that the appropriate Minister, rather than the Lieutenant Governor in Council, will designate the various institutions upon which municipalities may levy an amount in the nature of a tax; the requirement that municipalities in which such institutions are situate be designated by the Lieutenant Governor in Council is removed.

An Act to amend The Municipal Act

HER MAJESTY, by and with the advice and consent of the Legislative Assembly of the Province of Ontario, enacts as follows:

1. Section 302 of *The Municipal Act*, being chapter 284 of the Revised Statutes of Ontario, 1970, is repealed and the following substituted therefor: s. 302,
re-enacted

302. The council of every local municipality in each year shall levy in the manner set out in *The Ontario Unconditional Grants Act, 1975*, on the whole of the assessment for real property and business assessment, according to the last revised assessment roll, a sum equal to the aggregate of the sums adopted under section 307. Rates
1975, c. . . .

- 2.—(1) Subsection 1 of section 304 of the said Act, as re-enacted by the Statutes of Ontario, 1971, chapter 81, section 1 and amended by 1973, chapter 83, section 4, is further amended by striking out “designated by the Lieutenant Governor in Council” in the second and third lines and by striking out “Lieutenant Governor in Council” in the fifth and sixth lines and inserting in lieu thereof “Minister of Colleges and Universities”. s. 304 (1),
amended

- (2) Subsection 2 of the said section 304, as re-enacted by the Statutes of Ontario, 1973, chapter 83, section 4 and amended by 1974, chapter 136, section 7, is further amended by striking out “designated by the Lieutenant Governor in Council” in the second and third lines and by striking out “Lieutenant Governor in Council” in the fourth line and inserting in lieu thereof “Minister of Correctional Services”. s. 304 (2),
amended

- (3) Subsection 3 of the said section 304, as re-enacted by the Statutes of Ontario, 1973, chapter 83, section 4, is amended by striking out “designated by the Lieutenant Governor in Council” in the second and third lines and by striking out “Lieutenant Governor in Council” in the fifth line and inserting in lieu thereof “Minister of Health”. s. 304 (3),
amended

s. 304 (3a),
amended

- (4) Subsection 3a of the said section 304, as enacted by the Statutes of Ontario, 1974, chapter 136, section 7, is amended by striking out "designated by the Lieutenant Governor in Council" in the second and third lines and by striking out "Lieutenant Governor in Council" in the fifth line and inserting in lieu thereof "Minister of Community and Social Services".

s. 304 (3b),
re-enacted

- (5) Subsection 3b of the said section 304, as enacted by the Statutes of Ontario, 1974, chapter 136, section 7, is repealed and the following substituted therefor:

Applica-
tion

(3b) A designation of an institution previously made under this section by the Lieutenant Governor in Council shall continue in force and shall be deemed to be a designation of an institution made by the appropriate minister pursuant to this section and a designation of a facility under *The Developmental Services Act, 1974* previously made in 1975 by the Lieutenant Governor in Council pursuant to subsection 3a and the determination made by the Minister of Community and Social Services pursuant to that subsection shall continue to apply in respect of 1974 and a levy made in 1975 upon such designated facilities may be in respect of both 1974 and 1975.

1974, c. 2

s. 304,
amended

- (6) The said section 304, as amended by the Statutes of Ontario, 1971, chapter 81, section 1, 1973, chapter 83, section 4 and 1974, chapter 136, section 7, is further amended by adding thereto the following subsections:

Annual levy
on provincial
educational
institutions

(3c) Notwithstanding any general or special Act, the council of a local municipality, in which there is situate a provincial education institution designated by the Minister under whose jurisdiction such institution falls, may pass by-laws to levy an annual amount payable on or after the 1st day of July upon such institution, not exceeding the sum of \$50 a year for each place in such institution as determined by the aforesaid Minister.

Annual levy
on agri-
cultural
research
stations

(3d) Notwithstanding any general or special Act, the council of a local municipality, in which there is situate an agricultural research station designated by the Minister of Agriculture and Food, may pass by-laws to levy upon such research station an annual amount, payable on or after the 1st day of July, not to exceed,

- (a) \$5 per acre for each of the first 100 acres occupied by each such research station and \$2 per acre for each acre in excess of 100 acres occupied by each such research station up to 10,000 acres and

Subsection 5. Provides that designations previously made continue to apply.

Subsection 6. The institutions mentioned are added to the category of those upon which municipalities may levy.

Subsection 7. Subsection 4 of section 304 now provides a limitation on the total amount that may be levied under that section; that restriction of one-quarter of the total taxes levied in the preceding year (other than for school purposes) is removed.

Subsection 8. The limitation referred to in the note to subsection 7 continues to apply in the instance mentioned.

Subsections 9, 10 and 11. Complementary to the amendment in subsection 6 that added various institutions upon which amounts may be levied.

Subsection 12. Subsection 10 of section 304 of the Act defines "merged area" for certain purposes; the amendment brings the restructured County of Oxford into the same category as regional municipalities for this purpose.

Subsection 13. The subsection provides for a county to be notified of the amount of deemed assessment increase under section 304. The amendment removes this provision as it is now embodied in section 507 of the Act.

Subsection 14. The added subsection provides that in allocating the amounts levied under this section among the bodies for which a municipality levies a rate there is to be excluded from the calculations taxes added to the collector's roll under section 43 of *The Assessment Act*.

\$0.50 per acre in excess of 10,000 acres occupied by each such station; or

(b) \$100,

whichever is greater.

- (7) Subsection 4 of the said section 304, as re-enacted by the Statutes of Ontario, 1973, chapter 83, section 4, is repealed. s. 304 (4),
repealed
- (8) Notwithstanding the repeal of subsection 4 of section 304 of *The Municipal Act* by subsection 7 of this section, an amount levied by a municipality in 1975 in respect of the year 1974 upon a facility under *The Developmental Services Act, 1974* shall not exceed one-quarter of the total amount of taxes levied on all real property and business assessment in that municipality for all purposes other than school purposes in 1973. Proviso
R.S.O. 1970,
c. 284
1974, c. 2
- (9) Subsection 5 of the said section 304, as re-enacted by the Statutes of Ontario, 1974, chapter 136, section 7, is amended by striking out "or 3a" in the second line and inserting in lieu thereof "3a, 3c or 3d". s. 304 (5),
amended
- (10) Subsection 6 of the said section 304, as re-enacted by the Statutes of Ontario, 1974, chapter 136, section 7, is amended by striking out "or 3a" in the second line and inserting in lieu thereof "3a, 3c or 3d". s. 304 (6),
amended
- (11) Subsection 8 of the said section 304, as enacted by the Statutes of Ontario, 1973, chapter 83, section 4 and amended by 1974, chapter 136, section 7, is further amended by striking out "or 3a" in the amendment of 1974 and inserting in lieu thereof "3a, 3c or 3d". s. 304 (8),
amended
- (12) Subsection 10 of the said section 304, as enacted by the Statutes of Ontario, 1973, chapter 83, section 4, is amended by adding at the end thereof "and for the purposes of this subsection and subsection 9, the County of Oxford shall be deemed to be a regional municipality". s. 304 (10),
amended
- (13) Subsection 11 of the said section 304, as enacted by the Statutes of Ontario, 1973, chapter 83, section 4, is amended by inserting after "board" in the fourth line "or county". s. 304 (11),
amended
- (14) The said section 304 is further amended by adding thereto the following subsection: s. 304,
amended

Exclusion
of taxes
added to
collector's
roll under
R.S.O. 1970,
c. 32, s. 43

(12b) In determining taxes levied on commercial and industrial assessment under subsection 12, there shall be excluded taxes on such assessment under section 43 of *The Assessment Act*.

s. 304 (13),
amended

(15) Subsection 13 of the said section 304, as enacted by the Statutes of Ontario, 1973, chapter 83, section 4, is amended by striking out "section 7 of *The Regional Municipal Grants Act*" in the fifth and sixth lines and inserting in lieu thereof "section 7 of *The Ontario Unconditional Grants Act, 1975*".

s. 307 (2),
amended

3. Subsection 2 of section 307 of the said Act, as amended by the Statutes of Ontario, 1974, chapter 136, section 9, is further amended by striking out "but shall not make any allowance for payments to be received during the current year under section 7 of *The Municipal Unconditional Grants Act*" in the eighth, ninth and tenth lines.

Commence-
ment

4.—(1) This Act, except section 1, subsection 7 of section 2 and section 3, comes into force on the day it receives Royal Assent.

Idem

(2) Section 1, subsection 7 of section 2 and section 3, shall be deemed to have come into force on the 1st day of January, 1975.

Short title

5. This Act may be cited as *The Municipal Amendment Act, 1975*.

Subsection 15. The amendment reflects the repeal of *The Regional Municipal Grants Act* and its replacement by *The Ontario Unconditional Grants Act, 1975*.

SECTION 3. See the note to subsection 15 of section 2 of the Bill. *The Ontario Unconditional Grants Act, 1975* now governs the matter of allowances dealt with in subsection 2 of section 307 of the Act.

An Act to amend
The Municipal Act

1st Reading

April 8th, 1975

2nd Reading

3rd Reading

THE HON. W. D. McKEOUGH
Treasurer of Ontario and
Minister of Economics and
Intergovernmental Affairs

(Government Bill)

BILL 41

5TH SESSION, 29TH LEGISLATURE, ONTARIO
24 ELIZABETH II, 1975

An Act to amend The Municipal Act

THE HON. W. D. McKEOUGH
Treasurer of Ontario and Minister of Economics
and Intergovernmental Affairs

An Act to amend The Municipal Act

HER MAJESTY, by and with the advice and consent of the Legislative Assembly of the Province of Ontario, enacts as follows:

1. Section 302 of *The Municipal Act*, being chapter 284 of the Revised Statutes of Ontario, 1970, is repealed and the following substituted therefor: s. 302,
re-enacted

302. The council of every local municipality in each year shall levy in the manner set out in *The Ontario Unconditional Grants Act, 1975*, on the whole of the assessment for real property and business assessment, according to the last revised assessment roll, a sum equal to the aggregate of the sums adopted under section 307. Rates
1975, c. . . .

- 2.—(1) Subsection 1 of section 304 of the said Act, as re-enacted by the Statutes of Ontario, 1971, chapter 81, section 1 and amended by 1973, chapter 83, section 4, is further amended by striking out “designated by the Lieutenant Governor in Council” in the second and third lines and by striking out “Lieutenant Governor in Council” in the fifth and sixth lines and inserting in lieu thereof “Minister of Colleges and Universities”. s. 304 (1),
amended

- (2) Subsection 2 of the said section 304, as re-enacted by the Statutes of Ontario, 1973, chapter 83, section 4 and amended by 1974, chapter 136, section 7, is further amended by striking out “designated by the Lieutenant Governor in Council” in the second and third lines and by striking out “Lieutenant Governor in Council” in the fourth line and inserting in lieu thereof “Minister of Correctional Services”. s. 304 (2),
amended

- (3) Subsection 3 of the said section 304, as re-enacted by the Statutes of Ontario, 1973, chapter 83, section 4, is amended by striking out “designated by the Lieutenant Governor in Council” in the second and third lines and by striking out “Lieutenant Governor in Council” in the fifth line and inserting in lieu thereof “Minister of Health”. s. 304 (3),
amended

s. 304 (3a),
amended

- (4) Subsection 3a of the said section 304, as enacted by the Statutes of Ontario, 1974, chapter 136, section 7, is amended by striking out "designated by the Lieutenant Governor in Council" in the second and third lines and by striking out "Lieutenant Governor in Council" in the fifth line and inserting in lieu thereof "Minister of Community and Social Services".

s. 304 (3b),
re-enacted

- (5) Subsection 3b of the said section 304, as enacted by the Statutes of Ontario, 1974, chapter 136, section 7, is repealed and the following substituted therefor:

Applica-
tion

(3b) A designation of an institution previously made under this section by the Lieutenant Governor in Council shall continue in force and shall be deemed to be a designation of an institution made by the appropriate minister pursuant to this section and a designation of a facility under *The Developmental Services Act, 1974* previously made in 1975 by the Lieutenant Governor in Council pursuant to subsection 3a and the determination made by the Minister of Community and Social Services pursuant to that subsection shall continue to apply in respect of 1974 and a levy made in 1975 upon such designated facilities may be in respect of both 1974 and 1975.

1974, c. 2

s. 304,
amended

- (6) The said section 304, as amended by the Statutes of Ontario, 1971, chapter 81, section 1, 1973, chapter 83, section 4 and 1974, chapter 136, section 7, is further amended by adding thereto the following subsections:

Annual levy
on provincial
educational
institutions

(3c) Notwithstanding any general or special Act, the council of a local municipality, in which there is situate a provincial education institution designated by the Minister under whose jurisdiction such institution falls, may pass by-laws to levy an annual amount payable on or after the 1st day of July upon such institution, not exceeding the sum of \$50 a year for each place in such institution as determined by the aforesaid Minister.

Annual levy
on agri-
cultural
research
stations

(3d) Notwithstanding any general or special Act, the council of a local municipality, in which there is situate an agricultural research station designated by the Minister of Agriculture and Food, may pass by-laws to levy upon such research station an annual amount, payable on or after the 1st day of July, not to exceed,

- (a) \$5 per acre for each of the first 100 acres occupied by each such research station and \$2 per acre for each acre in excess of 100 acres occupied by each such research station up to 10,000 acres and

\$0.50 per acre in excess of 10,000 acres occupied by each such station; or

(b) \$100,

whichever is greater.

- (7) Subsection 4 of the said section 304, as re-enacted by the Statutes of Ontario, 1973, chapter 83, section 4, is repealed. s. 304 (4),
repealed
- (8) Notwithstanding the repeal of subsection 4 of section 304 of *The Municipal Act* by subsection 7 of this section, an amount levied by a municipality in 1975 in respect of the year 1974 upon a facility under *The Developmental Services Act, 1974* shall not exceed one-quarter of the total amount of taxes levied on all real property and business assessment in that municipality for all purposes other than school purposes in 1973. Proviso
R.S.O. 1970,
c. 284
1974, c. 2
- (9) Subsection 5 of the said section 304, as re-enacted by the Statutes of Ontario, 1974, chapter 136, section 7, is amended by striking out "or 3a" in the second line and inserting in lieu thereof "3a, 3c or 3d". s. 304 (5),
amended
- (10) Subsection 6 of the said section 304, as re-enacted by the Statutes of Ontario, 1974, chapter 136, section 7, is amended by striking out "or 3a" in the second line and inserting in lieu thereof "3a, 3c or 3d". s. 304 (6),
amended
- (11) Subsection 8 of the said section 304, as enacted by the Statutes of Ontario, 1973, chapter 83, section 4 and amended by 1974, chapter 136, section 7, is further amended by striking out "or 3a" in the amendment of 1974 and inserting in lieu thereof "3a, 3c or 3d". s. 304 (8),
amended
- (12) Subsection 10 of the said section 304, as enacted by the Statutes of Ontario, 1973, chapter 83, section 4, is amended by adding at the end thereof "and for the purposes of this subsection and subsection 9, the County of Oxford shall be deemed to be a regional municipality". s. 304 (10),
amended
- (13) Subsection 11 of the said section 304, as enacted by the Statutes of Ontario, 1973, chapter 83, section 4, is amended by inserting after "board" in the fourth line "or county". s. 304 (11),
amended
- (14) The said section 304 is further amended by adding thereto the following subsection: s. 304,
amended

Exclusion
of taxes
added to
collector's
roll under
R.S.O. 1970,
c. 32, s. 43

(12b) In determining taxes levied on commercial and industrial assessment under subsection 12, there shall be excluded taxes on such assessment under section 43 of *The Assessment Act*.

s. 304 (13),
amended

(15) Subsection 13 of the said section 304, as enacted by the Statutes of Ontario, 1973, chapter 83, section 4, is amended by striking out "section 7 of *The Regional Municipal Grants Act*" in the fifth and sixth lines and inserting in lieu thereof "section 7 of *The Ontario Unconditional Grants Act, 1975*".

s. 307 (2),
amended

3. Subsection 2 of section 307 of the said Act, as amended by the Statutes of Ontario, 1974, chapter 136, section 9, is further amended by striking out "but shall not make any allowance for payments to be received during the current year under section 7 of *The Municipal Unconditional Grants Act*" in the eighth, ninth and tenth lines.

Commence-
ment

4.—(1) This Act, except section 1, subsection 7 of section 2 and section 3, comes into force on the day it receives Royal Assent.

Idem

(2) Section 1, subsection 7 of section 2 and section 3, shall be deemed to have come into force on the 1st day of January, 1975.

Short title

5. This Act may be cited as *The Municipal Amendment Act, 1975*.

An Act to amend
The Municipal Act

1st Reading

April 8th, 1975

2nd Reading

April 17th, 1975

3rd Reading

April 17th, 1975

THE HON. W. D. McKEOUGH
Treasurer of Ontario and
Minister of Economics and
Intergovernmental Affairs

5TH SESSION, 29TH LEGISLATURE, ONTARIO
24 ELIZABETH II, 1975

An Act to establish Matrimonial Property Rights

MR. BOUNSALL

TORONTO

PRINTED BY J. C. THATCHER, QUEEN'S PRINTER FOR ONTARIO

EXPLANATORY NOTE

The purpose of this Bill is to recognize that marriage is an equal partnership and upon a divorce or nullity, the total value of the combined assets of the husband and wife acquired during the marriage shall be divided equally between them.

BILL 42

1975

An Act to establish Matrimonial Property Rights

WHEREAS marriage is a partnership in which both husband and wife work together as equals, and one spouse's contribution to the joint undertaking, in running the home and looking after the children is just as valuable as that of the other spouse in providing the home and supporting the family. Preamble

Therefore, Her Majesty, by and with the advice and consent of the Legislative Assembly of the Province of Ontario, enacts as follows:

1. In this Act,

Interpre-
tation

- (a) "child" means any child of the husband or wife or of both of them whether or not the husband and wife are married and "children" has a corresponding meaning;
- (b) "matrimonial home" includes the contents of the home.

2. Except where so ordered by a court of competent jurisdiction, a husband or a wife shall not dispose of a matrimonial home without the consent of the other spouse.

Disposal
of
matrimonial
home

3.—(1) Subject to subsection 2, upon a divorce or a nullity of a marriage, the total value of the combined assets of the husband and wife acquired during the marriage shall be equally divided between them.

Community
of assets

(2) Except for the income produced or the capital appreciation from the gift or inheritance, the value of any gift or inheritance received by the husband or wife during the marriage shall not be included in their combined assets.

Gifts and
inheritance
not part
of assets

(3) Except where the husband and wife agree in writing, no child shall share in a division of assets upon a divorce or a nullity of a marriage.

Children
not to
share

Claim
against
total
assets

4.—(1) Where the individual increase in the assets of a husband or wife is less than half of the total increase in assets of both the husband and wife during the marriage, the husband or wife, as the case may be, shall have a claim against the total assets of both of them acquired during the marriage.

Debts and
liabilities
deducted

(2) All unpaid debts and liabilities incurred during the marriage for the purpose of sustaining the marriage or any child shall be first deducted from the combined assets of the husband and wife when calculating a division of assets under subsection 1 of section 2.

Periodic
payments

(3) Except where the immediate payment of a claim under subsection 1 would render impossible the successful continuation of a farm or business enterprise, provision for periodic payments may be made to a husband or wife, as the case may be, and such payments shall be equal in amount, at least yearly and over a period not to exceed three years from the date of the final decree of nullity or divorce.

Remarriage

(4) A payment under subsection 3 shall not be affected by the subsequent remarriage of the husband or wife.

Limitation
on gifts

5.—(1) Except where a husband and wife agree, no husband or wife shall make a gift or gifts to another person or persons such that the total of the gift or gifts exceeds 3 per cent of the individual assets of the husband or wife, as the case may be.

Calculation
of
percentage

(2) For the purpose of calculating the percentage under subsection 1, the greatest value of the assets of the husband or wife during the one year period immediately prior to the commencement of the action for nullity or divorce shall be used.

Application
to common-
law union

6. Where a man and a woman hold themselves out as being man and wife and have lived together for a continuous period of at least six years without children or for a continuous period of at least two years where there are children, the provisions of this Act shall apply to the man and the woman as if they were husband and wife.

Commence-
ment

7. This Act comes into force on the day it receives Royal Assent.

Short title

8. This Act may be cited as *The Matrimonial Property Rights Act, 1975*.

An Act to establish
Matrimonial Property Rights

1st Reading

April 8th, 1975

2nd Reading

3rd Reading

MR. BOUNSALL

(Private Member's Bill)

5TH SESSION, 29TH LEGISLATURE, ONTARIO
24 ELIZABETH II, 1975

An Act to amend The Expropriations Act

THE HON. J. T. CLEMENT
Attorney General

EXPLANATORY NOTE

The amendment authorizes the Board to arbitrate compensation where the acquisition of the land is consented to.

An Act to amend The Expropriations Act

HER MAJESTY, by and with the advice and consent of the Legislative Assembly of the Province of Ontario, enacts as follows:

1. *The Expropriations Act*, being chapter 154 of the Revised Statutes of Ontario, 1970, is amended by adding thereto the following section: s. 30a,
enacted

30a. Where the owner of land consents to the acquisition of the land by a statutory authority, the statutory authority or the owner, with the consent of the other, may apply to the Board for the determination of the compensation to which the owner would be entitled by this Act if the land were expropriated, and the Board may determine the compensation and the provisions of this Act and the regulations respecting the determination of compensation, hearings and procedures, including costs and appeals, apply thereto in the same manner as if the land had been expropriated and for the purpose, subject to any agreement of the parties, the compensation shall be assessed as of the date on which the consent to the acquisition is given. Arbitration
where no
expropriation

2. This Act comes into force on the day it receives Royal Assent. Commence-
ment
3. This Act may be cited as *The Expropriations Amendment Act*, Short title
1975.

An Act to amend
The Expropriations Act

1st Reading

April 14th, 1975

2nd Reading

3rd Reading

THE HON. J. T. CLEMENT
Attorney General

(Government Bill)

BILL 43

5TH SESSION, 29TH LEGISLATURE, ONTARIO
24 ELIZABETH II, 1975

An Act to amend The Expropriations Act

THE HON. J. T. CLEMENT
Attorney General

TORONTO

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An Act to amend The Expropriations Act

HER MAJESTY, by and with the advice and consent of the Legislative Assembly of the Province of Ontario, enacts as follows:

1. *The Expropriations Act*, being chapter 154 of the Revised Statutes of Ontario, 1970, is amended by adding thereto the following section: s. 30a,
enacted

30a. Where the owner of land consents to the acquisition of the land by a statutory authority, the statutory authority or the owner, with the consent of the other, may apply to the Board for the determination of the compensation to which the owner would be entitled by this Act if the land were expropriated, and the Board may determine the compensation and the provisions of this Act and the regulations respecting the determination of compensation, hearings and procedures, including costs and appeals, apply thereto in the same manner as if the land had been expropriated and for the purpose, subject to any agreement of the parties, the compensation shall be assessed as of the date on which the consent to the acquisition is given. Arbitration
where no
expropriation

2. This Act comes into force on the day it receives Royal Assent. Commence-
ment
3. This Act may be cited as *The Expropriations Amendment Act*, 1975. Short title

An Act to amend
The Expropriations Act

1st Reading

April 14th, 1975

2nd Reading

April 29th, 1975

3rd Reading

April 29th, 1975

THE HON. J. T. CLEMENT
Attorney General

5TH SESSION, 29TH LEGISLATURE, ONTARIO
24 ELIZABETH II, 1975

The Liquor Control Act, 1975

THE HON. S. B. HANDLEMAN
Minister of Consumer and Commercial Relations

EXPLANATORY NOTE

The Bill continues the Liquor Control Board to perform the present functions of the Liquor Control Board concerned with the marketing of liquor by manufacturers and the operation of government stores.

BILL 44

1975

The Liquor Control Act, 1975

HER MAJESTY, by and with the advice and consent of the Legislative Assembly of the Province of Ontario, enacts as follows:

1. In this Act,

Interpre-
tation

- (a) "beer", "liquor", "spirits", "wine" and "Ontario wine" have the same meaning as in *The Liquor Licence Act, 1975*; ^{1975, c. . . .}
- (b) "Board" means the Liquor Control Board of Ontario continued under section 2;
- (c) "government store" means a store established or authorized under this Act by the Board for the sale of spirits, beer or Ontario wine;
- (d) "manufacturer" means a person authorized under an Act of the Parliament of Canada to manufacture or produce any liquor;
- (e) "Minister" means the Minister of Consumer and Commercial Relations or such other member of the Executive Council as the Lieutenant Governor in Council may designate.

2.—(1) The Liquor Control Board of Ontario is continued and shall consist of not more than five members appointed by the Lieutenant Governor in Council. ^{Liquor Control Board continued}

(2) The members of the Board shall be appointed to hold office for a term not exceeding five years and may be re-appointed for further succeeding terms not exceeding five years each. ^{Terms of office}

(3) The Lieutenant Governor in Council shall designate one of the members to be Chairman of the Board and may designate one of the members to be Vice-Chairman of the Board. ^{Chairman and Vice-Chairman}

Acting
Chairman

(4) In case of the absence or illness of the Chairman or there being a vacancy in the Office of the Chairman, the Vice-Chairman or, if none, such director as the Board designates for such purpose shall act as and have all the duties and powers of the Chairman.

Remuneration
of
members

(5) The members of the Board shall be paid such remuneration as is fixed by the Lieutenant Governor in Council.

Seat in
Assembly
not vacated
R.S.O. 1970,
c. 240

(6) Notwithstanding anything in *The Legislative Assembly Act*, the appointment of the Chairman or of any other member of the Board, if a member of the Assembly, shall not be avoided by reason of the payment to him or the acceptance by him of any salary or other remuneration under this Act, nor shall he thereby vacate or forfeit his seat or incur any of the penalties imposed by that Act for sitting and voting as a member of the Assembly.

Power and
purposes of
Board

3. The purposes of the Board are, and it has power,

- (a) to buy, import and have in its possession for sale, and to sell, liquor;
- (b) to control the sale, transportation and delivery of liquor;
- (c) to make provision for the maintenance of warehouses for liquor and to control the keeping in and delivery from any such warehouses;
- (d) to establish government stores for the sale of liquor to the public;
- (e) to authorize manufacturers of beer or Ontario wine to sell their beer or Ontario wine to the public in stores owned and operated by the manufacturers and to authorize Brewers' Warehousing Company Limited to operate stores for the sale of beer to the public;
- (f) to control and supervise the marketing methods and procedures of manufacturers including the operation of government stores by persons authorized under clause e;
- (g) subject to *The Liquor Licence Act, 1975*, to determine the municipalities within which government stores shall be established or authorized and the location of such stores in such municipalities;

1975, c. . . .

- (h) to determine the classes, varieties and brands of liquor to be kept for sale at government stores and maintain standards therefor;
- (i) to fix the prices at which the various classes, varieties and brands of liquor are to be sold and, except in the case of liquor sold through an outlet designated by the Minister of National Revenue under the *Excise Act* (Canada) as a duty free sales outlet, such prices shall be the same at all government stores; R.S.C. 1970,
c. E-13
- (j) to determine the nature, form and capacity of all packages to be used for containing liquor to be kept or sold;
- (k) to appoint one or more vendors of sacramental wines in any municipality and to control the keeping for sale, sale and delivery of sacramental wines;
- (l) to lease or, subject to the approval of the Lieutenant Governor in Council, to purchase such land and buildings and erect such buildings as are necessary for the purposes of the Board;
- (m) to require manufacturers of liquor to furnish such samples of their products to the Board as the Board may require;
- (n) to do all things necessary for the management and operation of the Board in the conduct of its business.

4.—(1) The Chairman shall preside at all meetings of the Board, or, in his absence, or if the office of Chairman is vacant, the Vice-Chairman has all the powers and shall perform all the duties of the Chairman. Duties of
Chairman

(2) The Chairman shall be the chief executive of the Board and shall devote his full time to the work of the Board, and the other members shall devote such time as is necessary for the due performance of their duties as members of the Board. Idem

(3) Subject to the approval of the Lieutenant Governor in Council, the Board may employ such officers, inspectors and employees and retain such assistance as is considered necessary and may determine their salary, remuneration and terms and conditions of employment. Staff

Employees' superannuation benefits
R.S.O. 1970, c. 387

(4) *The Public Service Superannuation Act* applies to the permanent and full-time probationary staff of the Board as though the Board had been designated by the Lieutenant Governor in Council under section 27 of that Act.

Corporation
R.S.O. 1970, c. 89

(5) The Board is a corporation to which *The Corporations Act* does not apply.

Payment of costs from revenues

5.—(1) All expenses incurred and expenditures made by the Board in the conduct of its affairs shall be paid out of the revenues of the Board.

Payments into Consolidated Revenue Fund

(2) The net profits of the Board shall be paid into the Consolidated Revenue Fund at such times and in such manner as the Lieutenant Governor in Council may direct.

Financial statements

(3) The accounts of the Board shall be made up to the 31st day of March in each year, and at such other times as is determined by the Lieutenant Governor in Council, and in every case the Board shall prepare a balance sheet and statement of profit and loss.

Reports to Treasurer

(4) The Board shall submit to the Treasurer of Ontario, at such times as he may prescribe, reports setting out the net profit and net profit forecasts of the Board and such reports shall contain such information as he may prescribe.

Audit

6. The accounts and financial transactions of the Board shall be audited annually by the Provincial Auditor.

Annual reports

7.—(1) The Board shall make a report annually to the Minister upon the affairs of the Board, and the Minister shall submit the report to the Lieutenant Governor in Council and shall then lay the report before the Assembly if it is in session or, if not, at the next ensuing session.

Other reports

(2) The Board shall make such further reports to the Minister and provide him with such information as the Minister may from time to time require.

Regulations

8. The Lieutenant Governor in Council may make regulations,

- (a) governing the sale and distribution of liquor by manufacturers;
- (b) governing the manner in which liquor may be kept, stored or transported by manufacturers;
- (c) prescribing standards for liquor sold in Ontario by manufacturers;

- (d) prescribing the days and hours when government stores or any class of them may be open;
- (e) requiring manufacturers to furnish the Board with such returns and information respecting the sale of liquor as is prescribed;
- (f) prescribing forms for the purposes of this Act and providing for their use.

9. The following are repealed:

Repeals

- 1. *The Liquor Control Act*, being chapter 249 of the Revised Statutes of Ontario, 1970.
- 2. *The Liquor Control Amendment Act, 1971*, being chapter 36.
- 3. *The Liquor Control Amendment Act, 1971*, being chapter 88.
- 4. *The Liquor Control Amendment Act, 1973*, being chapter 69.
- 5. Paragraph 18 of the Schedule to *The Age of Majority and Accountability Act, 1971*, being chapter 98.

10. This Act comes into force on a day to be named by proclamation of the Lieutenant Governor. Commence-
ment

11. This Act may be cited as *The Liquor Control Act*, Short title
1975.

1st Reading

April 15th, 1975

2nd Reading

3rd Reading

THE HON. S. B. HANDLEMAN
Minister of Consumer and
Commercial Relations

(Government Bill)

5TH SESSION, 29TH LEGISLATURE, ONTARIO
24 ELIZABETH II, 1975

The Liquor Control Act, 1975

THE HON. S. B. HANDLEMAN
Minister of Consumer and Commercial Relations

(Reprinted as amended by the Committee of the Whole House)

EXPLANATORY NOTE

The Bill continues the Liquor Control Board to perform the present functions of the Liquor Control Board concerned with the marketing of liquor by manufacturers and the operation of government stores.

BILL 44

1975

The Liquor Control Act, 1975

HER MAJESTY, by and with the advice and consent of the Legislative Assembly of the Province of Ontario, enacts as follows:

1. In this Act,

Inter-
pre-
tation

- (a) "beer", "liquor", "spirits", "wine" and "Ontario wine" have the same meaning as in *The Liquor Licence Act, 1975*, c....
- (b) "Board" means the Liquor Control Board of Ontario continued under section 2;
- (c) "government store" means a store established or authorized under this Act by the Board for the sale of spirits, beer or wine;
- (d) "manufacturer" means a person authorized under an Act of the Parliament of Canada to manufacture or produce any liquor;
- (e) "Minister" means the Minister of Consumer and Commercial Relations or such other member of the Executive Council as the Lieutenant Governor in Council may designate.

2.—(1) The Liquor Control Board of Ontario is continued and shall consist of not more than five members appointed by the Lieutenant Governor in Council.

Liquor
Control
Board
continued

(2) The members of the Board shall be appointed to hold office for a term not exceeding five years and may be re-appointed for further succeeding terms not exceeding five years each.

Terms of
office

(3) The Lieutenant Governor in Council shall designate one of the members to be Chairman of the Board and may designate one of the members to be Vice-Chairman of the Board.

Chairman
and Vice-
Chairman

Acting
Chairman

(4) In case of the absence or illness of the Chairman or there being a vacancy in the Office of the Chairman, the Vice-Chairman or, if none, such director as the Board designates for such purpose shall act as and have all the duties and powers of the Chairman.

Remunera-
tion of
members

(5) The members of the Board shall be paid such remuneration as is fixed by the Lieutenant Governor in Council.

Seat in
Assembly
not vacated
R.S.O. 1970,
c. 240

(6) Notwithstanding anything in *The Legislative Assembly Act*, the appointment of the Chairman or of any other member of the Board, if a member of the Assembly, shall not be avoided by reason of the payment to him or the acceptance by him of any salary or other remuneration under this Act, nor shall he thereby vacate or forfeit his seat or incur any of the penalties imposed by that Act for sitting and voting as a member of the Assembly.

Power and
purposes of
Board

3. The purposes of the Board are, and it has power,

- (a) to buy, import and have in its possession for sale, and to sell, liquor and other products containing alcohol and non-alcoholic beverages;
- (b) to control the sale, transportation and delivery of liquor;
- (c) to make provision for the maintenance of warehouses for liquor and to control the keeping in and delivery from any such warehouses;
- (d) to establish government stores for the sale of liquor to the public;
- (e) to authorize manufacturers of beer or Ontario wine to sell their beer or Ontario wine to the public in stores owned and operated by the manufacturers and to authorize Brewers' Warehousing Company Limited to operate stores for the sale of beer to the public;
- (f) to control and supervise the marketing methods and procedures of manufacturers including the operation of government stores by persons authorized under clause e;
- (g) subject to *The Liquor Licence Act, 1975*, to determine the municipalities within which government stores shall be established or authorized and the location of such stores in such municipalities;

1975, c. . . .

- (h) to determine the classes, varieties and brands of liquor to be kept for sale at government stores and maintain standards therefor;
- (i) to fix the prices at which the various classes, varieties and brands of liquor are to be sold and, except in the case of liquor sold through an outlet designated by the Minister of National Revenue under the *Excise Act* (Canada) as a duty free sales outlet, such prices shall be the same at all government stores; R.S.C. 1970,
c. E-13
- (j) to determine the nature, form and capacity of all packages to be used for containing liquor to be kept or sold;
- (k) to appoint one or more vendors of sacramental wines in any municipality and to control the keeping for sale, sale and delivery of sacramental wines;
- (l) to lease or, subject to the approval of the Lieutenant Governor in Council, to purchase such land and buildings and erect such buildings as are necessary for the purposes of the Board;
- (m) to require manufacturers of liquor to furnish such samples of their products to the Board as the Board may require;
- (n) to do all things necessary for the management and operation of the Board in the conduct of its business.

4.—(1) The Chairman shall preside at all meetings of the Board, or, in his absence, or if the office of Chairman is vacant, the Vice-Chairman has all the powers and shall perform all the duties of the Chairman. Duties of
Chairman

(2) The Chairman shall be the chief executive of the Board and shall devote his full time to the work of the Board, and the other members shall devote such time as is necessary for the due performance of their duties as members of the Board. Idem

(3) Subject to the approval of the Lieutenant Governor in Council, the Board may employ such officers, inspectors and employees and retain such assistance as is considered necessary and may determine their salary, remuneration and terms and conditions of employment. Staff

Employees' superannuation benefits
R.S.O. 1970, c. 387

(4) *The Public Service Superannuation Act* applies to the permanent and full-time probationary staff of the Board as though the Board had been designated by the Lieutenant Governor in Council under section 27 of that Act.

Corporation
R.S.O. 1970, c. 89

(5) The Board is a corporation to which *The Corporations Act* does not apply.

Payment of costs from revenues

5.—(1) All expenses incurred and expenditures made by the Board in the conduct of its affairs shall be paid out of the revenues of the Board.

Payments into Consolidated Revenue Fund

(2) The net profits of the Board shall be paid into the Consolidated Revenue Fund at such times and in such manner as the Lieutenant Governor in Council may direct.

Financial statements

(3) The accounts of the Board shall be made up to the 31st day of March in each year, and at such other times as is determined by the Lieutenant Governor in Council, and in every case the Board shall prepare a balance sheet and statement of profit and loss.

Reports to Treasurer

(4) The Board shall submit to the Treasurer of Ontario, at such times as he may prescribe, reports setting out the net profit and net profit forecasts of the Board and such reports shall contain such information as he may prescribe.

Audit

6. The accounts and financial transactions of the Board shall be audited annually by the Provincial Auditor.

Annual reports

7.—(1) The Board shall make a report annually to the Minister upon the affairs of the Board, and the Minister shall submit the report to the Lieutenant Governor in Council and shall then lay the report before the Assembly if it is in session or, if not, at the next ensuing session.

Other reports

(2) The Board shall make such further reports to the Minister and provide him with such information as the Minister may from time to time require.

Regulations

8. The Lieutenant Governor in Council may make regulations,

- (a) governing the sale and distribution of liquor by manufacturers;
- (b) governing the manner in which liquor may be kept, stored or transported by manufacturers;
- (c) prescribing standards for liquor sold in Ontario by manufacturers;

- (d) prescribing the days and hours when government stores or any class of them may be open;
- (e) requiring manufacturers to furnish the Board with such returns and information respecting the sale of liquor as is prescribed;
- (f) prescribing forms for the purposes of this Act and providing for their use;
- (g) governing the purchase of liquor under a permit issued by the Liquor Licence Board and requiring the payment of fees on such purchases and prescribing the amounts thereof.

9. The following are repealed:

Repeals

1. *The Liquor Control Act*, being chapter 249 of the Revised Statutes of Ontario, 1970.
2. *The Liquor Control Amendment Act, 1971*, being chapter 36.
3. *The Liquor Control Amendment Act, 1971*, being chapter 88.
4. *The Liquor Control Amendment Act, 1973*, being chapter 69.
5. Paragraph 18 of the Schedule to *The Age of Majority and Accountability Act, 1971*, being chapter 98.

10. This Act comes into force on a day to be named by proclamation of the Lieutenant Governor.

Commence-
ment

11. This Act may be cited as *The Liquor Control Act*, 1975.

Short title

1st Reading

April 15th, 1975

2nd Reading

June 3rd, 1975

3rd Reading

THE HON. S. B. HANDLEMAN
Minister of Consumer and
Commercial Relations

*(Reprinted as amended by the
Committee of the Whole House)*

BILL 44

5TH SESSION, 29TH LEGISLATURE, ONTARIO
24 ELIZABETH II, 1975

The Liquor Control Act, 1975

THE HON. S. B. HANDLEMAN
Minister of Consumer and Commercial Relations

The Liquor Control Act, 1975

HER MAJESTY, by and with the advice and consent of the Legislative Assembly of the Province of Ontario, enacts as follows:

1. In this Act, Interpre-
tation

- (a) "beer", "liquor", "spirits", "wine" and "Ontario wine" have the same meaning as in *The Liquor Licence Act, 1975*; 1975, c. . . .
- (b) "Board" means the Liquor Control Board of Ontario continued under section 2;
- (c) "government store" means a store established or authorized under this Act by the Board for the sale of spirits, beer or wine;
- (d) "manufacturer" means a person authorized under an Act of the Parliament of Canada to manufacture or produce any liquor;
- (e) "Minister" means the Minister of Consumer and Commercial Relations or such other member of the Executive Council as the Lieutenant Governor in Council may designate.

2.—(1) The Liquor Control Board of Ontario is continued and shall consist of not more than five members appointed by the Lieutenant Governor in Council. Liquor
Control
Board
continued

(2) The members of the Board shall be appointed to hold office for a term not exceeding five years and may be re-appointed for further succeeding terms not exceeding five years each. Terms of
office

(3) The Lieutenant Governor in Council shall designate one of the members to be Chairman of the Board and may designate one of the members to be Vice-Chairman of the Board. Chairman
and Vice-
Chairman

Acting
Chairman

(4) In case of the absence or illness of the Chairman or there being a vacancy in the Office of the Chairman, the Vice-Chairman or, if none, such director as the Board designates for such purpose shall act as and have all the duties and powers of the Chairman.

Remunera-
tion of
members

(5) The members of the Board shall be paid such remuneration as is fixed by the Lieutenant Governor in Council.

Seat in
Assembly
not vacated
R.S.O. 1970,
c. 240

(6) Notwithstanding anything in *The Legislative Assembly Act*, the appointment of the Chairman or of any other member of the Board, if a member of the Assembly, shall not be avoided by reason of the payment to him or the acceptance by him of any salary or other remuneration under this Act, nor shall he thereby vacate or forfeit his seat or incur any of the penalties imposed by that Act for sitting and voting as a member of the Assembly.

Power and
purposes of
Board

3. The purposes of the Board are, and it has power,

- (a) to buy, import and have in its possession for sale, and to sell, liquor and other products containing alcohol and non-alcoholic beverages;
- (b) to control the sale, transportation and delivery of liquor;
- (c) to make provision for the maintenance of warehouses for liquor and to control the keeping in and delivery from any such warehouses;
- (d) to establish government stores for the sale of liquor to the public;
- (e) to authorize manufacturers of beer or Ontario wine to sell their beer or Ontario wine to the public in stores owned and operated by the manufacturers and to authorize Brewers' Warehousing Company Limited to operate stores for the sale of beer to the public;
- (f) to control and supervise the marketing methods and procedures of manufacturers including the operation of government stores by persons authorized under clause e;
- (g) subject to *The Liquor Licence Act, 1975*, to determine the municipalities within which government stores shall be established or authorized and the location of such stores in such municipalities;

1975, c. . . .

- (h) to determine the classes, varieties and brands of liquor to be kept for sale at government stores and maintain standards therefor;
- (i) to fix the prices at which the various classes, varieties and brands of liquor are to be sold and, except in the case of liquor sold through an outlet designated by the Minister of National Revenue under the *Excise Act* (Canada) as a duty free sales outlet, such prices shall be the same at all government stores; R.S.C. 1970,
c. E-13
- (j) to determine the nature, form and capacity of all packages to be used for containing liquor to be kept or sold;
- (k) to appoint one or more vendors of sacramental wines in any municipality and to control the keeping for sale, sale and delivery of sacramental wines;
- (l) to lease or, subject to the approval of the Lieutenant Governor in Council, to purchase such land and buildings and erect such buildings as are necessary for the purposes of the Board;
- (m) to require manufacturers of liquor to furnish such samples of their products to the Board as the Board may require;
- (n) to do all things necessary for the management and operation of the Board in the conduct of its business.

4.—(1) The Chairman shall preside at all meetings of the Board, or, in his absence, or if the office of Chairman is vacant, the Vice-Chairman has all the powers and shall perform all the duties of the Chairman. Duties of
Chairman

(2) The Chairman shall be the chief executive of the Board and shall devote his full time to the work of the Board, and the other members shall devote such time as is necessary for the due performance of their duties as members of the Board. Idem

(3) Subject to the approval of the Lieutenant Governor in Council, the Board may employ such officers, inspectors and employees and retain such assistance as is considered necessary and may determine their salary, remuneration and terms and conditions of employment. Staff

Employees' superannuation benefits
R.S.O. 1970, c. 387

(4) *The Public Service Superannuation Act* applies to the permanent and full-time probationary staff of the Board as though the Board had been designated by the Lieutenant Governor in Council under section 27 of that Act.

Corporation
R.S.O. 1970, c. 89

(5) The Board is a corporation to which *The Corporations Act* does not apply.

Payment of costs from revenues

5.—(1) All expenses incurred and expenditures made by the Board in the conduct of its affairs shall be paid out of the revenues of the Board.

Payments into Consolidated Revenue Fund

(2) The net profits of the Board shall be paid into the Consolidated Revenue Fund at such times and in such manner as the Lieutenant Governor in Council may direct.

Financial statements

(3) The accounts of the Board shall be made up to the 31st day of March in each year, and at such other times as is determined by the Lieutenant Governor in Council, and in every case the Board shall prepare a balance sheet and statement of profit and loss.

Reports to Treasurer

(4) The Board shall submit to the Treasurer of Ontario, at such times as he may prescribe, reports setting out the net profit and net profit forecasts of the Board and such reports shall contain such information as he may prescribe.

Audit

6. The accounts and financial transactions of the Board shall be audited annually by the Provincial Auditor.

Annual reports

7.—(1) The Board shall make a report annually to the Minister upon the affairs of the Board, and the Minister shall submit the report to the Lieutenant Governor in Council and shall then lay the report before the Assembly if it is in session or, if not, at the next ensuing session.

Other reports

(2) The Board shall make such further reports to the Minister and provide him with such information as the Minister may from time to time require.

Regulations

8. The Lieutenant Governor in Council may make regulations,

- (a) governing the sale and distribution of liquor by manufacturers;
- (b) governing the manner in which liquor may be kept, stored or transported by manufacturers;
- (c) prescribing standards for liquor sold in Ontario by manufacturers;

- (d) prescribing the days and hours when government stores or any class of them may be open;
- (e) requiring manufacturers to furnish the Board with such returns and information respecting the sale of liquor as is prescribed;
- (f) prescribing forms for the purposes of this Act and providing for their use;
- (g) governing the purchase of liquor under a permit issued by the Liquor Licence Board and requiring the payment of fees on such purchases and prescribing the amounts thereof.

9. The following are repealed:

Repeals

- 1. *The Liquor Control Act*, being chapter 249 of the Revised Statutes of Ontario, 1970.
- 2. *The Liquor Control Amendment Act, 1971*, being chapter 36.
- 3. *The Liquor Control Amendment Act, 1971*, being chapter 88.
- 4. *The Liquor Control Amendment Act, 1973*, being chapter 69.
- 5. Paragraph 18 of the Schedule to *The Age of Majority and Accountability Act, 1971*, being chapter 98.

10. This Act comes into force on a day to be named by proclamation of the Lieutenant Governor.

11. This Act may be cited as *The Liquor Control Act*, Short title 1975.

The Liquor Control Act, 1975

1st Reading

April 15th, 1975

2nd Reading

June 3rd, 1975

3rd Reading

June 3rd, 1975

THE HON. S. B. HANDLEMAN
Minister of Consumer and
Commercial Relations

5TH SESSION, 29TH LEGISLATURE, ONTARIO
24 ELIZABETH II, 1975

The Liquor Licence Act, 1975

THE HON. S. B. HANDLEMAN
Minister of Consumer and Commercial Relations

EXPLANATORY NOTE

The Bill re-establishes the Liquor Licence Board to perform all the licensing functions, including those now performed by the Liquor Control Board. The Bill is a companion to a Bill to enact *The Liquor Control Act, 1975* which deals with liquor marketing functions. The Bill also contains all the inspection and offence provisions.

The principal changes are:

1. provision is made for licensing procedures and for hearings, review and appeals;
2. the offences are revised and simplified.

The Liquor Licence Act, 1975

HER MAJESTY, by and with the advice and consent of the Legislative Assembly of the Province of Ontario, enacts as follows:

1. In this Act,

Interpre-
tation

- (a) "alcohol" means a product of fermentation or distillation of grains, fruits or other agricultural products rectified once or more than once whatever may be the origin thereof, and includes synthetic ethyl alcohol;
- (b) "beer" means any beverage containing alcohol in a proportion that is greater than that prescribed by the regulations obtained by the fermentation of an infusion or decoction of barley, malt and hops or of any similar products in drinkable water;
- (c) "Board" means the Liquor Licence Board established under section 2;
- (d) "government store" means a government store as established under *The Liquor Control Act, 1975*; 1975, c. ...
- (e) "licence" means a licence issued under this Act;
- (f) "liquor" means spirits, wine and beer or any combination thereof and includes any alcohol in a form appropriate for human consumption as a beverage alone or in combination with any other matter;
- (g) "manufacturer" means a person authorized under an Act of the Parliament of Canada to manufacture or produce any liquor;

- (h) "Minister" means the Minister of Consumer and Commercial Relations;
- (i) "municipality" means a city, town, village or township;
- (j) "Ontario wine" means,
 - (i) wine produced from grapes, cherries, apples or other fruits grown in Ontario or the concentrated juice thereof, and includes Ontario wine to which has been added herbs, water, honey, sugar or the distillate of Ontario wine, or
 - (ii) wine produced by the alcoholic fermentation of Ontario honey with or without the addition of caramel, natural botanical flavours or the distillate of Ontario honey wine;
- (k) "permit" means a permit issued under this Act;
- (l) "regulations" means the regulations made under this Act;
- (m) "sell" means to supply for remuneration, directly or indirectly, in any manner by which the cost is recovered from the person supplied, alone or in combination with others, and "sale" has a corresponding meaning;
- (n) "spirits" means any beverage that contains alcohol obtained by distillation;
- (o) "Tribunal" means the Liquor Licence Appeal Tribunal established under section 14;
- (p) "wine" means any beverage containing alcohol in a proportion that is greater than that prescribed by the regulations obtained by the fermentation of the natural sugar contents of fruits, including grapes, apples and other agricultural products containing sugar, and including honey and milk.

Liquor
Licence
Board
established

2.—(1) The Liquor Licence Board is established and shall consist of not more than seven members appointed by the Lieutenant Governor in Council.

Chairman,
vice-
chairmen

(2) The Lieutenant Governor in Council may designate one of the members of the Board as chairman and one or more of the members as vice-chairmen.

(3) The members of the Board shall be appointed to hold office for a term not exceeding five years and may be reappointed for further successive terms not exceeding five years each. Term

(4) The members of the Board shall be paid such salaries or other remuneration as may be fixed by the Lieutenant Governor in Council. Remuneration

(5) The chairman shall be the chief executive officer of the Board and shall devote his full time to the work of the Board, and the other members shall devote such time as may be necessary for the due performance of their duties as members of the Board. Duties of chairman

(6) The Board is a corporation to which *The Corporations Act* does not apply. Corporation
R.S.O. 1970,
c. 89

(7) The Board shall perform such duties as are assigned to it by or under this and any other Act and shall administer and enforce this Act and the regulations. Duties

(8) Subject to the approval of the Lieutenant Governor in Council, the Board may appoint such officers, inspectors and employees and retain such assistance as is considered necessary and may determine their salary, remuneration and terms and conditions of employment. Staff

(9) The revenues of the Board shall be paid to the Treasurer of Ontario and the moneys required for the expenditures of the Board shall, until the 1st day of April, 1975, be paid out of the Consolidated Revenue Fund and thereafter shall be paid out of moneys appropriated therefor by the Legislature. Finances

3.—(1) Subject to subsection 2, the assets, liabilities and obligations of the Liquor Licence Board of Ontario, under *The Liquor Licence Act*, being chapter 250 of the Revised Statutes of Ontario, 1970, existing immediately before this Act comes into force, are vested in and bind the Crown. Transfer of
assets and
obligations

(2) Every contract or agreement, including collective agreements, respecting the employees of the Liquor Licence Board of Ontario under *The Liquor Licence Act*, being chapter 250 of the Revised Statutes of Ontario, 1970 and existing immediately before this Act comes into force continues and is binding on the Liquor Licence Board established by this Act. Preservation
of employ-
ment
agreements

(3) Subject to *The Crown Employees Collective Bargaining Act, 1972*, the bargaining unit in which the employees of the Bargaining
unit and
agent
continued
1972, c. 67

Liquor Licence Board of Ontario are included under *The Liquor Licence Act*, being chapter 250 of the Revised Statutes of Ontario, 1970, and the bargaining agent therefor, continue in respect of the employees of the Liquor Licence Board under this Act.

Licences and permits for sale of liquor

4.—(1) No person shall keep for sale, offer for sale or sell liquor except under the authority of a licence or permit issued by the Board.

Exception for beer and wine stores 1975, c. . .

(2) Subsection 1 does not apply to the sale of liquor by or under the authority of the Liquor Control Board of Ontario under *The Liquor Control Act, 1975*.

Transfer of licences

(3) A licence issued under this section may be transferred, subject to the approval of the Board, on the application of the transferee.

Temporary transfers

(4) The Board may approve the transfer of a licence for a period of not more than six months, to permit the orderly disposition of licensed premises by a trustee in bankruptcy, receiver or liquidator authorized by statute or a court for the purpose and section 6 does not apply.

Manufacturer's licence to sell

5.—(1) The Board may, subject to the approval of the Minister, issue a licence authorizing the manufacturer of spirits, beer or Ontario wine to keep for sale, offer for sale or sell such spirits, beer or Ontario wine to the Liquor Control Board of Ontario under *The Liquor Control Act, 1975* and the decision of the Board to issue or to refuse to issue a licence, with the approval of the Minister, is final.

Conditions

(2) A licence under subsection 1 may be issued subject to such terms or conditions as are prescribed in the licence or by the regulations.

Licence to sell other than by manufacturer

6.—(1) An applicant for a licence, or for approval of the transfer of a licence other than a licence referred to in section 5, is entitled to be issued the licence or have the transfer approved except where,

- (a) having regard to his financial position, the applicant cannot reasonably be expected to be financially responsible in the conduct of his business;
- (b) the applicant is not a Canadian citizen or a person lawfully admitted to Canada for permanent residence and ordinarily resident in Canada;
- (c) the applicant is a corporation and,

- (i) having regard to its financial position, it cannot reasonably be expected to be financially responsible in the conduct of its business, or
 - (ii) the past conduct of its officers or directors affords reasonable grounds for belief that its business will not be carried on in accordance with law and with integrity and honesty, or
 - (iii) a majority of the members of the board of directors are not Canadian citizens or persons lawfully admitted to Canada for permanent residence and ordinarily resident in Canada;
- (d) the past conduct of the applicant affords reasonable grounds for belief that he will not carry on business in accordance with law and with integrity and honesty;
- (e) the applicant is carrying on activities that are, or will be, if the applicant is licensed, in contravention of this Act or the regulations;
- (f) the premises and accommodation, equipment and facilities in respect of which the licence is issued do not comply with the provisions of this Act and the regulations applicable thereto;
- (g) in the case of an application for a licence, the issuance of the licence is not in the public interest having regard to the needs and wishes of the public in the municipality in which the premises is located.
- (2) No licence shall be issued under this section or renewed Where issue of licence prohibited and no approval of the transfer of a licence shall be given,
- (a) to a person who is under agreement with any person to sell the liquor of any manufacturer;
 - (b) to a manufacturer of liquor, or his agent, or to a person who is so associated or connected therewith, or financially interested therein as to be likely to promote the sale thereof;
 - (c) to a person who by reason of any agreement, arrangement, concession, obligation or understanding, verbal or written, or direct or indirect, with any other person is or by reason thereof may be likely to promote the sale of liquor of any manufacturer; or

- (d) for premises in which a manufacturer of liquor has an interest, whether freehold or leasehold, or by way of mortgage or charge or other encumbrance, or by way of mortgage, lien or charge upon any chattel property therein and whether such interest is direct or indirect or contingent or by way of suretyship or guarantee.

Publication
of notice of
application

(3) Where an application is made for a licence under this section and, subject to compliance with clause g of subsection 1, the applicant is not disentitled, the Board shall advertise the fact of the application, the nature of the licence applied for and the location of the premises at least twice in a newspaper having general circulation in the municipality in respect of which the licence is applied for and shall fix in the advertisement a time and place in the licensing district for the residents of the municipality to make representations to the Board concerning the application.

Public
representa-
tion

(4) The Board or such member or members thereof as are designated by the chairman shall hold a public meeting in accordance with the notice under subsection 3 for the purpose of receiving the representations referred to therein and shall take such representations into consideration for the purposes of this section.

Expiry

7.—(1) A licence issued under section 4 or 5 expires two years after its issuance or latest renewal, subject to renewal by the Board in accordance with this Act and the regulations.

First
renewal of
existing
licences

(2) The first renewal of a licence continued under section 9 may be made for a term fixed by the Board, being not less than one year and not more than two years.

Continuance
pending
renewal

(3) Where, within the time prescribed therefor or, if no time is prescribed, before expiry of his licence, a licensee has applied for renewal of his licence and paid the prescribed fee, his licence shall be deemed to continue,

(a) until the renewal is granted; or

(b) where he is served with notice that the Board proposes to refuse to grant the renewal, until the time for giving notice requiring a hearing has expired and, where a hearing is required, until the order has become final.

Special
occasion
permits

8.—(1) Subject to the regulations, the Board may issue a permit authorizing the holder thereof to keep for sale, offer for sale, sell or serve liquor on a special occasion.

(2) An applicant for a permit for a special occasion that complies with the regulations is entitled to be issued the permit except upon the grounds set out in clause *d*, *e* or *f* of subsection 1 of section 6 and subsections 1 and 2 of section 6 apply in respect of permits, *mutatis mutandis*, in the same way as they apply in respect of licences. Issuance

(3) A permit may be issued by an officer of the Board designated by the Board for the purpose and such officer shall refer to the Board every application for a permit or renewal that he proposes to refuse. Idem

9.—(1) Every licence and permit issued by the Liquor Licence Board under *The Liquor Licence Act*, being chapter 250 of the Revised Statutes of Ontario, 1970, and subsisting immediately before this Act comes into force continues in effect, subject to this Act, until it expires or is otherwise terminated. Continuation of licences and permits

(2) Every application for a licence or permit made to the Liquor Licence Board under *The Liquor Licence Act*, being chapter 250 of the Revised Statutes of Ontario, 1970 and undisposed of when this Act comes into force is continued and shall be dealt with by the Board in accordance with this Act. Continuation of applications

10.—(1) The Board may at any time review a licence or permit on its own initiative and attach such further terms and conditions as, it considers proper to give effect to the purposes of this Act. Imposition of new terms and conditions

(2) The Board may, on the application of the holder of a licence or permit, remove any term or condition to which the licence or permit is made subject under subsection 1 where there is a change of circumstances. Removal of terms and conditions

11.—(1) Subject to section 12, the Board may refuse to issue or approve the transfer of a licence under section 6 or to issue a permit under section 8 where, in the Board's opinion, the applicant is not entitled to a licence or permit under the provisions applicable thereto. Refusal to issue

(2) Subject to section 12, the Board may refuse to renew or may suspend or revoke a licence issued under section 5 for any reason referred to in clauses *e* and *f* of subsection 1 of section 6 or where the licensee is in breach of a term or condition of his licence. Idem

(3) Subject to section 12, the Board may refuse to renew or may suspend or revoke a licence issued under section 6 for any reason that would disentitle the licensee Revocation, suspension or refusal to renew

to a licence under section 6 if he were an applicant or where the licensee is in breach of a term or condition of the licence.

Voluntary
cancellation

(4) The Board may cancel a licence upon the request in writing of the licensee in the prescribed form surrendering his licence.

Revocation
of permits

(5) Subject to section 12, the Board may revoke a permit issued under section 8 for any reason that would disentitle the holder to a permit if he were an applicant, or where the holder of the permit is in breach of a term or condition of the permit.

Notice of
proposal

12.—(1) Where the Board proposes,

- (a) to refuse to issue a licence or permit, renew a licence or approve the transfer of a licence;
- (b) to suspend or revoke a licence or permit; or
- (c) to attach terms and conditions to a licence or permit or to refuse to remove a term or condition of a licence or permit under section 10,

it shall serve notice of its proposal together with written reasons therefor on the applicant or holder of the licence or permit affected.

Interim
suspension

(2) Where the Board proposes to suspend or revoke a licence or permit the Board may, where the Board considers it to be necessary in the public interest, by order temporarily suspend the licence or permit and the order shall take effect immediately and where a hearing is required expires fifteen days from the date of the notice requiring the hearing unless the hearing is commenced in which case the Board or Tribunal holding the hearing may extend the time of expiration until the hearing is concluded.

Notice
requiring
hearing

(3) A notice under subsection 1 shall inform the applicant or holder of the licence or permit that he is entitled to a hearing by the Board if he mails or delivers to the Board, within fifteen days after the notice under subsection 1 is served on him, notice in writing requiring a hearing by the Board, and he may so require such a hearing.

Powers of
Board
where no
hearing

(4) Where an applicant or holder of the licence or permit does not require a hearing by the Board in accordance with subsection 3, the Board may carry out the proposal stated in its notice under subsection 1.

13.—(1) Where the Board is required to hold a hearing under section 12, the chairman of the Board shall refer the application to two or more members of the Board designated by the chairman, who shall constitute the Board for the purposes of the hearing and decision. Members holding hearing

(2) The Board shall fix a time and place for the hearing of the application and shall at least ten days before the day fixed cause notice thereof to be served upon the applicant, and upon any other person appearing to the Board to have an interest in the application. Notice of hearing

(3) Every person upon whom notice of a hearing is served and any other person added by the Board is a party to the proceedings. Parties

(4) Each member of the Board has power to administer oaths and affirmations for the purpose of any of its proceedings. Oaths

(5) The Board shall hold the hearing and give its decision and reasons therefor in writing to the parties to the proceedings. Decision and reasons

(6) An order of the Board revoking or suspending a licence or permit takes effect immediately unless otherwise provided in the order but, where a hearing by the Tribunal is required, the Tribunal may grant a stay until the Tribunal makes its decision. Stay

14.—(1) The Liquor Licence Appeal Tribunal is established and shall consist of not more than seven members who shall be appointed by the Lieutenant Governor in Council, and the Lieutenant Governor in Council shall appoint one of such members as chairman and one or more of them as vice-chairmen. Liquor Licence Appeal Tribunal

(2) The members of the Tribunal shall be appointed to hold office for a term not exceeding five years and may be reappointed for further successive terms not exceeding five years each. Term of office

(3) The members of the Tribunal shall be paid such salaries or other remuneration as may be fixed by the Lieutenant Governor in Council. Remuneration

(4) The chairman shall have general supervision and direction over the conduct of the affairs of the Tribunal, and shall arrange the sittings of the Tribunal and assign members to conduct hearings as circumstances require. Duties of chairman

(5) Three members of the Tribunal constitute a quorum. Quorum

Publication of decisions	(6) The Tribunal shall prepare and periodically publish a summary of its decisions and the reasons therefor.
Oaths	(7) Each member of the Tribunal has power to administer oaths and affirmations for the purpose of any of its proceedings.
Hearing by Tribunal	15. —(1) Any party to a proceeding before the Board under section 13 who is aggrieved by the decision of the Board may, within fifteen days after he is served with the decision of the Board, mail or deliver to the Board and the Tribunal a notice in writing requiring a hearing by the Tribunal.
Idem	(2) Any person to whom a notice is given under section 12 may require a hearing by the Tribunal by giving notice in accordance with subsection 1 notwithstanding that he has not first required a hearing by the Board.
Powers of Tribunal	(3) Where an applicant or holder of the licence or permit requires a hearing by the Tribunal in accordance with subsection 1, the Tribunal shall appoint a time for and hold the hearing and may by order confirm, alter or revoke the decision of the Board or direct the Board to take such action as the Tribunal considers the Board ought to take in accordance with this Act and the regulations, and for such purposes the Tribunal may substitute its opinion for that of the Board.
Conditions of order	(4) The Tribunal may attach such terms and conditions to its order or to the licence or permit as it considers proper to give effect to the purposes of this Act.
Parties	(5) The Board, the applicant or the holder of the licence or permit who has required the hearing and such other persons as the Tribunal may specify are parties to proceedings before the Tribunal under this section.
Members holding hearing not to have taken part in investigation, etc.	16. —(1) A member of the Tribunal holding a hearing shall not have taken part before the hearing in any investigation of the subject-matter of the hearing and shall not communicate directly or indirectly in relation to the subject-matter of the hearing with any person or with any party or his representative except upon notice to and opportunity for all parties to participate, but the Tribunal may seek legal advice from an adviser independent from the parties and in such case the nature of the advice should be made known to the parties in order that they may make submissions as to the law.
Opportunity to comply	(2) Notice of a hearing under section 15 shall afford the applicant or holder of the licence or permit a reasonable opportunity to show or achieve compliance before the

hearing with all lawful requirements for the renewal or retention of the licence or permit.

(3) An applicant or holder of the licence or permit who is a party to proceedings under section 15 shall be afforded an opportunity to examine before the hearing any written or documentary evidence that will be produced, or any report the content of which will be given in evidence at the hearing. Examination of documentary evidence

(4) The oral evidence taken before the Tribunal shall be recorded and, if so required, copies or a transcript thereof shall be furnished upon the same terms as in the Supreme Court. Recording of evidence

(5) The findings of fact of the Tribunal pursuant to a hearing or review shall be based exclusively on evidence admissible or matters that may be noticed under sections 15 and 16 of *The Statutory Powers Procedure Act, 1971*. Findings of fact 1971. c. 47

(6) No member of the Tribunal shall participate in a decision of the Tribunal pursuant to a hearing unless he was present throughout the hearing and heard the evidence and argument of the parties and, except with the consent of the parties, no decision of the Tribunal shall be given unless all members so present participate in the decision. Only members at hearing to participate in decision

(7) Documents and things put in evidence at a hearing of the Tribunal shall, upon the request of the person who produced them, be released to him by the Tribunal within a reasonable time after the matter in issue has been finally determined. Release of documentary evidence

(8) Notwithstanding any limitation of time for the giving of a notice requiring a hearing by the Tribunal and where it is satisfied that there are *prima facie* grounds for granting relief and that there are reasonable grounds for applying for the extension, the Tribunal may extend the time for giving the notice either before or after expiration of the time so limited and may give such directions as it considers proper consequent upon such extension. Extension of time for notice requiring hearing

(9) The Tribunal shall give its decision and reasons therefor in writing to the parties to the proceedings. Reasons

(10) An order of the Tribunal revoking or suspending a licence or permit takes effect immediately but, where an appeal is made to the Supreme Court, the court may grant a stay until the disposition of the appeal. Stay

17.—(1) Any notice required to be given or served in connection with proceedings of or before the Board or the Tribunal is sufficiently given or served if delivered Service

personally or sent by registered mail addressed to the person to whom delivery or service is required to be made.

Where
service
deemed
to be
made

(2) Where service is made by registered mail, the service shall be deemed to be made on the third day after the day of mailing unless the person on whom service is being made establishes that he did not, acting in good faith, through absence, accident, illness or other cause beyond his control receive the notice or order until a later date.

Exception

(3) Notwithstanding subsections 1 and 2, the Tribunal may order any other method of service in respect of any matter before the Tribunal.

Decision of
Tribunal
re issuance
final

18. The decision of the Tribunal respecting the issuance of or refusal to issue a licence or permit or refusal to approve the transfer of a licence is final.

Appeal from
decision to
revoke, etc.

19.—(1) Any party to proceedings before the Tribunal respecting the revocation, suspension or refusal to renew a licence or permit, or the imposition of or refusal to remove a term or condition of a licence or permit may appeal from the decision of the Tribunal to the Supreme Court in accordance with the rules of court.

Minister
entitled to
be heard

(2) The Minister is entitled to be heard, by counsel or otherwise, upon the argument of an appeal under this section.

Powers of
court on
appeal

(3) An appeal under this section may be made on questions of law only.

"Equity
share"
defined

20.—(1) In this section, "equity share" means a share of a class of shares that carries a voting right either under all circumstances or under some circumstances that have occurred and are continuing.

Notice of
transfer of
shares

(2) Every licence or permit holder that is a corporation shall notify the Board in writing within thirty days after the issue or the entry of a transfer of any shares of its capital stock where such issue or transfer results in,

- (a) any shareholder and shareholders associated with him acquiring or accumulating at least 10 per cent of the total number of all issued and outstanding equity shares of such stock; or
- (b) any shareholder and shareholders associated with him who already owns 10 per cent or more of the total number of all issued and outstanding equity shares of such stock increasing such holding.

(3) In calculating the total number of equity shares ^{Idem} of the corporation beneficially owned or controlled for the purposes of this section, the total number shall be calculated as the total of all the shares actually owned or controlled, but each share that carries the right to more than one vote shall be calculated as the number of shares equalling the total number of votes it carries.

(4) Where a licence or permit holder that is a corporation ^{Idem} is aware that a transfer which comes within the provisions of subsection 2 has taken place, it shall notify the Board in writing within thirty days after such knowledge came to the attention of its officers or directors, and not within thirty days of the entry of the transfer.

(5) For the purposes of subsection 2, a shareholder shall be deemed to be associated with another shareholder if, ^{Associated shareholder}

- (a) one shareholder is a company of which the other shareholder is an officer or director;
- (b) one shareholder is a partnership of which the other shareholder is a partner;
- (c) one shareholder is a company that is controlled directly or indirectly by the other shareholder;
- (d) both shareholders are companies and one shareholder is controlled directly or indirectly by the same individual or company that controls directly or indirectly the other shareholder;
- (e) both shareholders are members of a voting trust where the trust relates to shares of a corporation; or
- (f) both shareholders are associated within the meaning of clauses a to e with the same shareholder.

(6) Where, in the opinion of the Board, an issue or transfer of equity shares of capital stock of a licensed corporation results in a shareholder and shareholders associated with him having a material or substantial interest in the corporation, such issue or transfer shall be deemed to be a change of ownership and unless transferred under subsection 3 of section 4, the licence ceases to exist. ^{Application of s. 4 (3)}

21. The Minister may by order appoint a person to make an investigation into any matter to which this Act applies as may be specified in the Minister's order and the person appointed shall report the result of his investigation to the Minister and, for the purposes of the investigation, ^{Investigation by Minister}

1971, c. 49 the person making it has the powers of a commission under Part II of *The Public Inquiries Act, 1971*, which Part applies to such investigation as if it were an inquiry under that Act.

Investigation by Board

22.—(1) Where, upon a statement made under oath, the Board believes on reasonable and probable grounds that any person has,

(a) contravened any of the provisions of this Act or the regulations; or

R.S.C. 1970,
c. C-34

(b) committed an offence under the *Criminal Code* (Canada) or under the law of any jurisdiction that is relevant to his fitness for a licence or permit under this Act,

the Board may, by order, appoint one or more persons to make an investigation to ascertain whether such a contravention of the Act or regulation or the commission of such an offence has occurred and the person appointed shall report the result of his investigation to the Board.

Powers of investigator

(2) For purposes relevant to the subject-matter of an investigation under this section, the person appointed to make the investigation may inquire into and examine the affairs of the person in respect of whom the investigation is being made and may,

(a) upon production of his appointment, enter at any reasonable time the premises of such person, not including any premises or part thereof occupied as living accommodation, and examine books, papers, documents and things relevant to the subject-matter of the investigation; and

(b) inquire into negotiations, transactions, loans, borrowings made by or on behalf of or in relation to such person and into property, assets or things owned, acquired or alienated in whole or in part by him or any person acting on his behalf that are relevant to the subject-matter of the investigation,

and for the purposes of the inquiry, the person making the investigation has the powers of a commission under Part II of *The Public Inquiries Act, 1971*, which Part applies to such inquiry as if it were an inquiry under that Act.

Obstruction of investigator

(3) No person shall obstruct a person appointed to make an investigation under this section or withhold from him or conceal or destroy any books, papers, documents or things relevant to the subject-matter of the investigation.

(4) Where a provincial judge is satisfied, upon an *ex parte* Search warrant application by the person making an investigation under this section, that the investigation has been ordered and that such person has been appointed to make it and that there is reasonable ground for believing there are in any building, dwelling, receptacle or place any books, papers, documents or things relating to the person whose affairs are being investigated and to the subject-matter of the investigation, the provincial judge may, whether or not an inspection has been made or attempted under clause *a* of subsection 2, issue an order authorizing the person making the investigation, together with such police officer or officers as he calls upon to assist him, to enter and search, if necessary by force, such building, dwelling, receptacle or place for such books, papers, documents or things and to examine them, but every such entry and search shall be made between sunrise and sunset unless the provincial judge, by the order, authorizes the person making the investigation to make the search at night.

(5) Any person making an investigation under this section may, upon giving a receipt therefor, remove any books, papers, documents or things examined under clause *a* of subsection 2 or subsection 4 relating to the person whose affairs are being investigated and to the subject-matter of the investigation for the purpose of making copies of such books, papers or documents, but such copying shall be carried out with reasonable dispatch and the books, papers or documents in question shall be promptly thereafter returned to the person whose affairs are being investigated. Removal of books, etc.

(6) Any copy made as provided in subsection 5 and certified to be a true copy by the person making the investigation is admissible in evidence in any action, proceeding or prosecution as *prima facie* proof of the original book, paper or document and its contents. Admissibility of copies

(7) The Board may appoint any expert to examine books, papers, documents or things examined under clause *a* of subsection 2 or under subsection 4. Appointment of experts

23. Any person designated by the Board in writing may at any reasonable time enter upon any premises in respect of which a licence or permit is issued to make an inspection for the purpose of ensuring that the provisions of this Act and the regulations and the terms and conditions of the licence or permit are being complied with, and no person shall obstruct the person inspecting or withhold or destroy, conceal or refuse to furnish any information or thing required by the person inspecting for the purposes of the inspection. Inspections

Special
audit

24.—(1) The Board may at any time authorize and direct a representative of the Board appointed for that purpose to enter upon any premises where the books, accounts or records of or pertaining to any licensed manufacturer are kept or may be, and to inspect, study, audit, take extracts from such books, accounts or other records, and may, upon giving a receipt therefor, remove any such material that relates to the purpose of the inspection for the purpose of making a copy thereof, provided that such copying is carried out with reasonable dispatch and the material in question is promptly thereafter returned to the person being inspected, and no person shall obstruct the person inspecting or withhold or destroy, conceal or refuse to furnish any information or thing required by the person inspecting for the purposes of the inspection.

Admissibility
in evidence

(2) Any copy made as provided in subsection 1 and purporting to be certified by an inspector is admissible in evidence in any action, proceeding or prosecution as *prima facie* proof of the original.

Matters
confidential

25.—(1) Every person employed in the administration of this Act, including any person making an inquiry, inspection or an investigation under this Act, shall preserve secrecy in respect of all matters that come to his knowledge in the course of his duties, employment, inquiry, inspection or investigation and shall not communicate any such matters to any other person except,

- (a) as may be required in connection with the administration of this Act and the regulations or any proceedings under this Act; or
- (b) to his counsel; or
- (c) with the consent of the person to whom the information relates.

Testimony
in civil suit

(2) No person to whom subsection 1 applies shall be required to give testimony in any civil suit or proceeding with regard to information obtained by him in the course of his duties, employment, inquiry, inspection or investigation except in a proceeding under this Act.

Prohibited
areas

26. Subject to sections 27 and 28 and the regulations, no licence shall be issued or government store established of a class for the sale of liquor in a municipality,

- (a) in which the sale of liquor or the sale of liquor under that class of licence or store was prohibited under the law as it existed immediately before this Act comes into force; or

- (b) although the sale of liquor is not prohibited by law, no licence has been issued or government store established since the 16th day of September, 1916.

27.—(1) The council of a municipality may submit one or more of the questions prescribed by the regulations respecting the authorization for the sale of liquor in the municipality to a vote of the persons appearing by the last revised list of the municipality and qualified to vote at elections of the Assembly and the council shall submit to the said vote such questions as are requested by petition signed by at least 25 per cent of the persons entitled to vote on the submission. Submission by council to vote

(2) Where 60 per cent of the electors voting on a question, required to be submitted by virtue of clause *a* of section 26, vote in the affirmative, it is lawful to establish government stores, or issue the classes of licences in the municipality accordingly. Affirmative vote

(3) Where 40 per cent of the electors voting on a question required to be submitted by virtue of clause *b* of section 26 vote in the affirmative, it is lawful to establish government stores or issue the classes of licences in the municipality accordingly. Idem

28.—(1) The council of a municipality in which a government store is established or liquor is authorized to be sold under a licence may, and on petition as provided in section 27 shall, submit to the electors such questions respecting the closing of the store or premises as are prescribed by the regulations. Local option to cease sale

(2) Where 60 per cent of the electors voting on the question or questions vote in the negative, from and after the 31st day of March in the following year, any government store established in the municipality shall be closed, or licences of any class for premises in the municipality shall be discontinued, as the case may be, in accordance with the question or questions submitted and voted upon. Where negative vote polled

29. Where a question is submitted in a municipality under section 27 or 28, neither that question nor any other question shall be submitted in the municipality until after the expiration of a period of three years from the date of such submission. Questions not to be submitted again for three years

30.—(1) At least five weeks before the taking of a vote upon any question under section 27 or 28, the electors interested in obtaining an affirmative answer and a negative answer respectively to the question or questions may Appointment of managers for vote

notify the returning officer in writing, signed by at least twenty-five electors, that they have appointed a manager for their side of the question or questions and the manager may appoint agents at the polling places and generally has all the powers and shall perform all the duties and is subject to the like provisions as far as practicable as a candidate at an election to the Assembly, and in case more than one person is named as manager, the first person named on either side shall be manager.

Notice of
filing of
petition

(2) When a petition has been filed with the clerk of the municipality pursuant to section 27 or 28, the clerk shall give notice in writing of the filing to each of the managers, and the managers are, for a period of four weeks from the date of such notice, entitled to examine and inspect the petition.

Date of
polling
1972, c. 95

31. The day fixed for taking the vote on any question or questions shall be the day upon which under *The Municipal Elections Act, 1972*, or any by-law passed under that Act, a poll would be held at the election of members of the council of the municipality, unless the council with the approval of the Board fixes some other day and notifies the clerk of the municipality to that effect, but a poll shall not be held on any such question or questions until after the expiration of two months from the passing of a by-law for submitting the question or questions where the council submits the question or questions without a petition, nor until after the expiration of two months from the filing of the petition, as the case may be.

Who may
vote

32.—(1) The persons qualified to vote upon a question or questions are such persons as are named upon the polling list and would be qualified in other respects to vote at an election to the Assembly held on the day fixed for taking the poll upon the question or questions.

Application
of general law
R.S.O. 1970,
c. 142

(2) Except as otherwise provided by this Act, the provisions of *The Election Act* respecting,

- (a) the preparation and revision of the lists;
- (b) the time and manner of holding the poll;
- (c) the holding of advance polls;
- (d) the forms to be used and the oaths to be administered;
- (e) the powers and duties of returning officers, deputy returning officers and poll clerks,

and all the provisions relating to corrupt practices, illegal acts, offences and penalties and their prosecutions apply to the taking of a vote under this Act.

(3) Subject to the approval of the Lieutenant Governor in Council, the Chief Election Officer shall give such directions and make such regulations and prepare such forms as appear to him to be necessary in carrying out sections 27 to 34 and for the guidance of returning officers and other officers and persons employed in the taking of the vote, and may modify or alter any of the provisions of *The Election Act* when compliance therewith appears to be inconvenient, impracticable or unnecessary and may make due provision for circumstances that may arise and that are not provided for or contemplated by sections 27 to 34.

Directions
as to taking
vote

R.S.O. 1970,
c. 142

(4) The forms to be used at the taking of the vote upon a question or questions shall be the same as nearly as may be as the forms used at an election to the Assembly, but such forms may be modified and altered to such extent as is necessary.

Forms

(5) The voters' lists shall be revised as provided in *The Election Act* with respect to the revision of the lists at an election to the Assembly, and polling lists shall be prepared as provided by *The Election Act*.

Revision
of lists

(6) It is not necessary for the polling lists for use at the taking of a vote to be printed, nor is it necessary to prepare more copies than are required to provide one copy of the list for each polling place, one copy for the returning officer and two copies for persons representing those supporting the affirmative and negative respectively.

Polling
lists

(7) The treasurer of the municipality shall pay returning officers and other officers and servants such fees for services performed under sections 27 to 34, and such expenses incurred in carrying out such sections, as are fixed by the regulations.

Fees and
expenses

(8) The returning officer upon the taking of a vote shall be the clerk of the municipality, or, in case of his inability to act or of a vacancy in the office, some person to be appointed by by-law of the municipal council.

Returning
officer

(9) The returning officer shall make his return to the Chief Election Officer showing the number of votes polled for the affirmative and negative on the question or questions submitted and, upon the receipt of such return, the Chief Election Officer shall make his return to the Lieutenant Governor in Council and give notice thereof in *The Ontario*

Return to
Chief
Election
Officer

Gazette showing the total number of votes polled in the municipality for the affirmative and negative upon the question or questions.

Where
validity of
vote
questioned

1972, c. 95

R.S.O. 1970,
c. 142

Recounts

Amalgama-
tions,
annexations
not to affect
status quo
under Act

Who
entitled
to vote

Interdiction
orders

Hearings

Disregard
of order

33.—(1) Notwithstanding anything in this or any other Act, where the validity of a vote on any question or questions submitted under this Act is questioned, the provisions of *The Municipal Elections Act, 1972* relating to proceedings to declare a seat vacant, apply *mutatis mutandis*, except that no vote under this Act shall be set aside or declared invalid for any reason set out in section 92 of *The Election Act*, and any notice of motion required under *The Municipal Elections Act, 1972* shall be served on such person as the judge or master, as defined in that Act, may direct.

(2) Notwithstanding anything in this or any other Act, where a recount of a vote on any question or questions submitted under this Act is requested, sections 81 to 86 of *The Municipal Elections Act, 1972* apply *mutatis mutandis*.

34.—(1) No amalgamation of a municipality with another municipality and no annexation of the whole or a part of a municipality to another municipality affects the operation of this Act at the time of the amalgamation or annexation in the municipality amalgamated or municipality or part annexed or elsewhere until such operation is affected pursuant to a vote under this Act in the municipality amalgamated or municipality or part annexed, as the case may be.

(2) The persons qualified to vote upon any question or questions or to sign a petition pursuant to section 27 or 28 are the persons who are resident in the municipality amalgamated or municipality or part annexed, as the case may be, and who are qualified to be entered on the voters list and to vote at elections to the Assembly.

35.—(1) Where it is made to appear to the satisfaction of the Board that a person, resident or sojourning in Ontario, by excessive drinking of liquor, misspends, wastes or lessens his estate, or injures his health, or interrupts the peace and happiness of his family, the Board may make an order of interdiction prohibiting the sale of liquor to him until further ordered.

(2) Sections 12, 13 and 15 apply in respect of the proposal to make and the making of the interdiction order in the same manner as to a proposal to revoke and the revocation of a licence.

(3) Every interdicted person keeping or having in his possession or under his control or consuming any liquor is guilty of an offence, and the judge making the conviction may in and by the conviction declare the liquor and all

packages in which the liquor is contained forfeited to Her Majesty in right of Ontario.

(4) Upon an order of interdiction being made, the interdicted person shall deliver forthwith to the Board all liquor in his possession or under his control to be kept for him by the Board until the order of interdiction is revoked or set aside, or, at the option of the Board, such liquor may be purchased from him at a price to be fixed by the Board.

Delivery of
liquor

(5) The Board shall notify all managers of government stores, and such other persons as are prescribed by the regulations of the order of interdiction.

Notice
of order

(6) No person shall knowingly procure for, sell or give any liquor to an interdicted person, nor directly or indirectly assist in procuring or supplying any liquor to an interdicted person.

Supply of
liquor to
interdicted
person

(7) No interdicted person shall enter upon the premises of a government store.

Interdicted
person not to
enter govern-
ment store

36. Upon an application to the Board by a person in respect of whom an order of interdiction has been made, and upon it being made to appear to the satisfaction of the Board that the circumstances of the case did not warrant the making of the order of interdiction or upon proof that the interdicted person has refrained from drunkenness for at least twelve months immediately preceding the application, the Board may by order set aside the order of interdiction, and the interdicted person may be restored to all his rights under this Act and the regulations, and the Board shall accordingly forthwith notify all persons notified of the original order.

Setting
aside of
interdiction
order

37.—(1) In this section,

Interpre-
tation

(a) "detoxification centre" means a public hospital designated by the regulations;

(b) "municipality" means a municipality responsible for maintaining a police force.

(2) Where a constable or other police officer finds a person in a public place apparently in contravention of subsection 3 of section 46, he may take such person into custody and, in lieu of laying an information in respect of the contravention, may escort the person to a detoxification centre.

Taking to
detoxifica-
tion centre
in lieu
of charge

(3) No action or other proceedings for damages shall be instituted against any physician or any hospital or officer or employee thereof on the grounds only that he examines or treats without consent a person in a detoxification centre under subsection 2 who is brought to the centre by a constable or other police officer.

Protection
from
liability

Detention
for
reclamation

38. Where it appears that a person in contravention of subsection 3 of section 46 may benefit therefrom, the judge may order the person to be detained for a period of ninety days in an institution for the reclamation of alcoholics that is designated for the purpose by the regulations, but, if at any time during this period the superintendent of the institution is of the opinion that further detention therein will not benefit him, the superintendent may release him.

Registration
of manu-
facturers'
agents

39.—(1) No person shall, directly or indirectly, hold himself out or act as agent or representative of a manufacturer in respect of the sale of liquor or canvass for, receive, take or solicit an order for the sale of liquor by a manufacturer or hold himself out or act as an agent or intermediary for the purpose unless he is registered with the Board as an agent or representative of such manufacturer.

Grounds
for refusal

(2) An applicant for registration is entitled to be registered except where the past conduct of the applicant affords reasonable grounds for belief that he will not carry on business in accordance with the law and with integrity and honesty.

Continuation
of existing
registrations

(3) Every person registered under section 78 of *The Liquor Control Act*, being chapter 249 of the Revised Statutes of Ontario, 1970 immediately before this section comes into force continues to be registered under this Act, subject to the provisions of this Act and the regulations.

Procedures

(4) The provisions of this Act applying to the issuance, refusal, suspension or revocation of a licence apply, *mutatis mutandis*, to the granting, refusal, suspension or revocation of a registration.

Regulations

40. The Lieutenant Governor in Council may make regulations,

- (a) prescribing classes of licences and permits and the terms and conditions to which each class is subject;
- (b) providing for issuance of licences and for renewals and transfer thereof;
- (c) establishing licensing districts and prescribing the maximum number of licences for the sale of liquor in each licensing district or any part thereof;
- (d) prescribing classes of premises and confining the issuance of any specified class or classes of licences to any specified class or classes of premises;
- (e) governing and providing for the issuance of permits for special occasions and prescribing the special occasions for which permits may be issued;

- (f) providing for the registration of agents and representatives of manufacturers;
- (g) requiring the payment of fees in respect of applications for and the issuance, renewal or transfer of licences, permits and registrations;
- (h) prescribing classes of licences or permits that may be issued in respect of premises in a municipality notwithstanding section 26;
- (i) requiring the holders of licences and permits to provide the Board with such information and returns respecting the sale of liquor and the premises, methods and practices connected therewith as is prescribed and requiring any information provided to be verified by oath;
- (j) controlling the advertising of liquor or its availability for sale and requiring that the form of advertisement or public notice be subject to the approval of the Board;
- (k) exempting uses of alcohol from the application of section 49;
- (l) prescribing the questions for the purpose of voting on questions under sections 27 and 28;
- (m) prescribing standards for premises or the part thereof used in connection with the sale of liquor by the holders of licences and permits and the accommodation, equipment and facilities therein and prescribing or prohibiting methods and practices in connection with the serving of liquor;
- (n) prescribing the circumstances under which the manufacturer of liquor may give by gift any liquor;
- (o) prescribing the minimum alcoholic content of wine and beer for the purposes of clauses *b* and *p* of section 1;
- (p) prescribing classes of premises in which the sale of liquor is authorized on which a person under the age of eighteen years may enter;
- (q) designating public hospitals as detoxification centres;
- (r) designating institutions for the reclamation of alcoholics detained therein under section 38 and governing the transfer and admission of persons to and detention of persons in such institutions and providing for the government and operation of such institutions;

- (s) prescribing rules for proceedings before the Board or the Tribunal;
- (t) prescribing the form and content of the application for and of the card for proof of age, requiring the payment of a fee for its issuance and prescribing the amount thereof;
- (u) exempting any person or premises or any class thereof from any provision of this Act or the regulations;
- (v) prescribing any matter that by this Act is required or permitted to be or referred to as prescribed by the regulations.

Intoxicating
liquor for
purposes of
R.S.C. 1970,
c. I-4

41. Liquor shall be deemed to be an intoxicating liquor for the purposes of the *Importation of Intoxicating Liquors Act* (Canada).

Unlawful
purchase

42. No person shall purchase liquor except from a government store or from a person authorized by licence or permit to sell.

Unlawful
gift by manu-
facturer

43. No manufacturer of liquor shall in Ontario, by himself, his clerk, servant or agent, give any liquor to any person, except as is permitted by and in accordance with the regulations.

Sale to
persons under
influence

44. No person shall sell or supply liquor or permit liquor to be sold or supplied to any person under or apparently in an intoxicated condition.

Minors

45.—(1) No person shall knowingly sell or supply liquor to a person under the age of eighteen years.

Idem

(2) No liquor shall be sold or supplied to a person who is apparently under the age of eighteen years, and, in any prosecution for a contravention of this subsection, the justice shall determine from the appearance of such person and other relevant circumstances whether he is apparently under the age of eighteen years.

Minor pro-
hibited from
purchasing
liquor

(3) No person under the age of eighteen years shall have, consume, attempt to purchase, purchase or otherwise obtain liquor.

Idem

(4) No person under the age of eighteen years shall enter or remain on premises in which the sale of liquor is authorized except those classes of premises that are prescribed by the regulations.

(5) This section does not apply to the supplying of liquor to a person under the age of eighteen years by the parent or guardian of such person in a residence as defined in section 46. Application of section

(6) A person who sells or supplies liquor to another person shall be deemed not to be in contravention of subsection 1 or 2 if, before he sells or supplies the liquor, a card in the form prescribed by the regulations is produced to him by the person to whom he sells or supplies the liquor, which purports to be issued by the Board to the person producing it and if there is no apparent inconsistency on the face of the card or between the card and the person producing it. Card as proof of age

46.—(1) In this section,

Interpretation

(a) “public place” means a place to which the general public is invited or permitted access, whether or not for a fee;

(b) “residence” means a place that is actually occupied and used as a dwelling, whether or not in common with other persons, including all premises used in conjunction therewith that is not a public place, and where the place occupied and used as a dwelling is a tent, includes the land immediately adjacent and used in conjunction therewith.

(2) No person shall consume liquor in any place other than a premises in respect of which a licence or permit is issued or a residence. Unlawful consumption

(3) No person shall be in an intoxicated condition in a public place. Intoxication in public place

(4) A police officer may arrest without warrant any person whom he finds contravening subsection 3 where to do so is necessary to protect that person or another from injury. Arrest without warrant

47. The holder of a licence or permit issued in respect of premises shall ensure that any person whom he has reasonable grounds to believe, Power to eject from licensed premises

(a) is unlawfully on the premises;

(b) is on the premises for an unlawful purpose; or

(c) is contravening the law on the premises,

does not remain on the premises and may request the person to leave the premises immediately and if the request is not forthwith complied with may forcibly remove him by the use of no more force than is necessary.

Conveying
liquor in
vehicle
R.S.O. 1970,
c. 202

48.—(1) No person shall drive or have the care or control of a motor vehicle as defined in *The Highway Traffic Act* or motorized snow vehicle, whether it is in motion or not, while there is contained therein any liquor, except,

- (a) liquor in a bottle or package that is unopened and the seal unbroken; or
- (b) liquor in a bottle or package that is packed with personal effects in baggage that is fastened closed or that is not otherwise readily available to any person in the vehicle.

Search of
vehicles

(2) A constable or other police officer may at any time, without a warrant, enter and search any vehicle or other conveyance in which he has reasonable grounds to believe that liquor is unlawfully kept or had, and search any person found in such vehicle or other conveyance.

Unlawful
consumption
of alcohol

49. No person shall,

- (a) drink alcohol in a form that is not a liquor; or
- (b) supply alcohol in a form that is not a liquor to another when he knows or ought to know that the other intends it to be used as a drink.

Regulation of
advertising

50.—(1) No person shall advertise liquor or display public notice that liquor is available for sale except in accordance with the regulations.

Order of
cessation

(2) Where the Board believes on reasonable and probable grounds that any advertisement or public notice is in contravention of this Act or the regulations, the Board may order the immediate cessation of the use of such advertisement or notice, and the provisions of this Act applying to the imposition by the Board of a condition of the licence apply *mutatis mutandis* to the order, and the order of the Board shall take effect immediately, but the Tribunal may grant a stay until the Board's order becomes final.

Forfeiture
of liquor

51.—(1) Liquor kept for sale or offered for sale in contravention of section 4 and liquor purchased in contravention of section 42 is forfeited to the Board.

(2) Where liquor to which subsection 1 applies is seized by a police officer, he shall forthwith make or cause to be made a report of the particulars of the seizure to the Board and shall deliver the liquor or cause the liquor to be delivered to the Board as soon as the due process of the law permits.

Report and
delivery

52.—(1) Any person who is over the age of eighteen years and not an interdicted person may apply to the Board for a card certifying that such person has attained the age of eighteen years.

Card
certifying
age

(2) A card issued by the Board shall contain a photographic likeness of the applicant and otherwise be in the form prescribed by the regulations.

Form of
card

(3) No person shall supply false information or a false photographic likeness in an application made under subsection 1, or alter in any way, any card issued by the Board.

False
information

(4) No person shall present as evidence of his age any card purporting to be issued by the Board other than a card issued to him by the Board.

False
card

53. Where any person or his servant or agent sells liquor to or for a person whose condition is such that the consumption of liquor would apparently intoxicate him or increase his intoxication so that he would be in danger of causing injury to his person or injury or damage to the person or property of others, if the person to or for whom the liquor is sold while so intoxicated,

Civil
liability

(a) commits suicide or meets death by accident, an action under *The Fatal Accidents Act* lies against the person who or whose servant or agent sold the liquor; or

R.S.O. 1970,
c. 164

(b) causes injury or damage to the person or property of another person, such other person is entitled to recover an amount to compensate him for his injury or damage from the person who or whose servant or agent sold the liquor.

54.—(1) Every person who, knowingly,

Offences

(a) furnishes false information in any application under this Act or in any statement or return required to be furnished under this Act or the regulations;

(b) fails to comply with an order of the Board under subsection 2 of section 50;

(c) contravenes any provision of this Act or the regulations,

and every director or officer of a corporation who knowingly concurs in such furnishing, failure or contravention is guilty of an offence and on summary conviction is liable to a fine of not more than \$2,000 or to imprisonment for a term of not more than one year, or to both.

Corporations

(2) Where a corporation is convicted of an offence under subsection 1, the maximum penalty that may be imposed upon the corporation is \$25,000 and not as provided therein.

Consent of Minister

(3) No proceeding to prosecute under clause *a* or *b* of subsection 1 shall be instituted except with the consent of the Minister.

Limitation

(4) No proceeding to prosecute under clause *a* of subsection 1 shall be commenced more than one year after the facts upon which the proceeding is based first came to the knowledge of the Board.

Idem

(5) No proceeding to prosecute under clause *b* or *c* of subsection 1 shall be commenced more than two years after the time when the subject-matter of the proceeding arose.

Certificate as evidence

55. A statement as to,

- (a) the licensing or non-licensing of any person;
- (b) the filing or non-filing of any document or material required or permitted to be filed with the Board;
- (c) the time when the facts upon which proceedings are based first came to the knowledge of the Board; or
- (d) any other matter pertaining to such licence, non-licensing, filing or non-filing,

purporting to be certified by the chairman of the Board is, without proof of the office or signature of the chairman, receivable in evidence as *prima facie* proof of the facts stated therein for all purposes in any action, proceeding or prosecution.

Analysis

56. In any prosecution under this Act or the regulations, upon production of a certificate or report signed or purporting to be signed by a federal or provincial analyst as to the analysis or ingredients of any liquor or other fluid or any preparation, compound or substance, the certificate or report is conclusive evidence of the facts stated in the certificate or report and of the authority of the person giving or making it without any proof of appointment or signature.

57. Nothing in this Act prevents the sale,Exception
for drugs
and
medicines
1974, c. 47

- (a) of a drug dispensed as a medicine by a person authorized to do so under *The Health Disciplines Act, 1974*;
- (b) of a drug compounded, dispensed or supplied in and by a hospital or a health or custodial institution approved or licensed under any general or special Act under the authority of a prescriber as defined in Part VI of *The Health Disciplines Act, 1974* for a person under health care provided by such hospital or health or custodial institution;
- (c) subject to section 49, of a medicine registered under the *Proprietary or Patent Medicine Act* (Canada); or R.S.C. 1970,
P-25
- (d) of a drug to a person authorized under *The Health Disciplines Act, 1974* to dispense, prescribe or administer drugs,

or the purchase of such drug or medicine sold in accordance with this section.

58. The following are repealed:

Repeals

1. *The Liquor Licence Act*, being chapter 250 of the Revised Statutes of Ontario, 1970.
2. *The Liquor Licence Amendment Act, 1971*, being chapter 35.
3. *The Liquor Licence Amendment Act, 1973*, being chapter 68.
4. Paragraph 19 of the Schedule to *The Age of Majority and Accountability Act, 1971*, being chapter 98.

59. This Act comes into force on a day to be named by proclamation of the Lieutenant Governor. Commence-
ment

60. This Act may be cited as *The Liquor Licence Act, 1975*. Short title

1st Reading

April 15th, 1975

2nd Reading

3rd Reading

THE HON. S. B. HANDLEMAN
Minister of Consumer and
Commercial Relations

(Government Bill)

5TH SESSION, 29TH LEGISLATURE, ONTARIO
24 ELIZABETH II, 1975

The Liquor Licence Act, 1975

THE HON. S. B. HANDLEMAN
Minister of Consumer and Commercial Relations

(Reprinted as amended by the Committee of the Whole House)

EXPLANATORY NOTE

The Bill re-establishes the Liquor Licence Board to perform all the licensing functions, including those now performed by the Liquor Control Board. The Bill is a companion to a Bill to enact *The Liquor Control Act, 1975* which deals with liquor marketing functions. The Bill also contains all the inspection and offence provisions.

The principal changes are:

1. provision is made for licensing procedures and for hearings, review and appeals;
2. the offences are revised and simplified.

The Liquor Licence Act, 1975

HER MAJESTY, by and with the advice and consent of the Legislative Assembly of the Province of Ontario, enacts as follows:

1. In this Act,

Interpre-
tation

- (a) "alcohol" means a product of fermentation or distillation of grains, fruits or other agricultural products rectified once or more than once whatever may be the origin thereof, and includes synthetic ethyl alcohol;
- (b) "beer" means any beverage containing alcohol in a proportion that is greater than that prescribed by the regulations obtained by the fermentation of an infusion or decoction of barley, malt and hops or of any similar products in drinkable water;
- (c) "Board" means the Liquor Licence Board established under section 2;
- (d) "government store" means a government store as established under *The Liquor Control Act, 1975*; 1975, c. 27
- (e) "licence" means a licence issued under this Act;
- (f) "liquor" means spirits, wine and beer or any combination thereof and includes any alcohol in a form appropriate for human consumption as a beverage alone or in combination with any other matter;
- (g) "manufacturer" means a person authorized under an Act of the Parliament of Canada to manufacture or produce any liquor;

- (h) "Minister" means the Minister of Consumer and Commercial Relations;
- (i) "municipality" means a city, town, village or township;
- (j) "Ontario wine" means,
 - (i) wine produced from grapes, cherries, apples or other fruits grown in Ontario or the concentrated juice thereof, and includes Ontario wine to which has been added herbs, water, honey, sugar or the distillate of Ontario wine, or
 - (ii) wine produced by the alcoholic fermentation of Ontario honey with or without the addition of caramel, natural botanical flavours or the distillate of Ontario honey wine;
- (k) "permit" means a permit issued under this Act;
- (l) "regulations" means the regulations made under this Act;
- (m) "sell" means to supply for remuneration, directly or indirectly, in any manner by which the cost is recovered from the person supplied, alone or in combination with others, and "sale" has a corresponding meaning;
- (n) "spirits" means any beverage that contains alcohol obtained by distillation;
- (o) "Tribunal" means the Liquor Licence Appeal Tribunal established under section 14;
- (p) "wine" means any beverage containing alcohol in a proportion that is greater than that prescribed by the regulations obtained by the fermentation of the natural sugar contents of fruits, including grapes, apples and other agricultural products containing sugar, and including honey and milk.

Liquor
Licence
Board
established

2.—(1) The Liquor Licence Board is established and shall consist of not more than seven members appointed by the Lieutenant Governor in Council.

Chairman,
vice-
chairmen

(2) The Lieutenant Governor in Council may designate one of the members of the Board as chairman and one or more of the members as vice-chairmen.

(3) The members of the Board shall be appointed to ^{Term} hold office for a term not exceeding five years and may be reappointed for further successive terms not exceeding five years each.

(4) The members of the Board shall be paid such ^{Remuneration} salaries or other remuneration as may be fixed by the Lieutenant Governor in Council.

(5) The chairman shall be the chief executive officer ^{Duties of chairman} of the Board and shall devote his full time to the work of the Board, and the other members shall devote such time as may be necessary for the due performance of their duties as members of the Board.

(6) The Board is a corporation to which *The Corporations Act* does not apply. ^{Corporation R.S.O. 1970, c. 89}


(7) The Board shall perform such duties as are assigned ^{Duties} to it by or under this and any other Act and shall administer and enforce this Act and the regulations.

(8) Subject to the approval of the Lieutenant Governor ^{Staff} in Council, the Board may appoint such officers, inspectors and employees and retain such assistance as is considered necessary and may determine their salary, remuneration and terms and conditions of employment.

(9) The revenues of the Board shall be paid to the ^{Finances} Treasurer of Ontario and the moneys required for the expenditures of the Board shall, until the 1st day of April, 1976, be paid out of the Consolidated Revenue Fund and thereafter shall be paid out of moneys appropriated therefor by the Legislature.

3.—(1) Subject to subsection 2, the assets, liabilities ^{Transfer of assets and obligations} and obligations of the Liquor Licence Board of Ontario, under *The Liquor Licence Act*, being chapter 250 of the Revised Statutes of Ontario, 1970, existing immediately before this Act comes into force, are vested in and bind the Crown.

(2) Every contract or agreement, including collective ^{Preservation of employment agreements} agreements, respecting the employees of the Liquor Licence Board of Ontario under *The Liquor Licence Act*, being chapter 250 of the Revised Statutes of Ontario, 1970 and existing immediately before this Act comes into force continues and is binding on the Liquor Licence Board established by this Act.

 (3) For the purposes of and subject to *The Crown Employees Collective Bargaining Act*, 1972, and the regulations ^{Bargaining unit and agent under 1972, c. 67}

thereunder, and subject to any further designation under that Act, the persons employed in the work of the Board are designated as a unit of employees that is an appropriate bargaining unit for collective bargaining purposes and the Liquor Control Board of Ontario and Liquor Licence Board of Ontario Employees' Association is designated as the employee organization that has representation rights in relation to such bargaining unit.

Licences and permits for sale of liquor

4.—(1) No person shall keep for sale, offer for sale or sell liquor except under the authority of a licence or permit issued by the Board.

Soliciting orders

(2) No person shall canvass for, receive or solicit orders for the sale of liquor unless he is the holder of a licence or permit issued by the Board under subsection 1 or unless he is registered under section 39.

Exception for beer and wine stores 1975, c. 27

(3) Subsections 1 and 2 do not apply to the sale of liquor by or under the authority of the Liquor Control Board of Ontario under *The Liquor Control Act, 1975*.

Transfer of licences

(4) A licence issued under this section may be transferred, subject to the approval of the Board, on the application of the transferee.

Temporary transfers

(5) The Board may approve the transfer of a licence for a period of not more than six months, to permit the orderly disposition of licensed premises by a trustee in bankruptcy, receiver or liquidator authorized by statute or a court for the purpose or a mortgagee who enters into possession under the mortgage and section 6 does not apply.

Manufacturer's licence to sell

5.—(1) The Board may, subject to the approval of the Minister, issue a licence authorizing the manufacturer of spirits, beer or Ontario wine to keep for sale, offer for sale or sell such spirits, beer or Ontario wine to the Liquor Control Board of Ontario under *The Liquor Control Act, 1975* and the decision of the Board to issue or to refuse to issue a licence, with the approval of the Minister, is final.

Conditions

(2) A licence under subsection 1 may be issued subject to such terms or conditions as are prescribed in the licence or by the regulations.

Licence to sell other than by manufacturer

6.—(1) An applicant for a licence, or for approval of the transfer of a licence other than a licence referred to in section 5, is entitled to be issued the licence or have the transfer approved except where,

- (a) having regard to his financial position, the applicant cannot reasonably be expected to be financially responsible in the conduct of his business;
- (b) the applicant is not a Canadian citizen or a person lawfully admitted to Canada for permanent residence and ordinarily resident in Canada;
- (c) the applicant is a corporation and,
 - (i) having regard to its financial position, it cannot reasonably be expected to be financially responsible in the conduct of its business; or
 - (ii) the past conduct of its officers or directors or of a shareholder who owns or controls 10 per cent or more of its issued and outstanding equity shares as determined under section 20 affords reasonable grounds for belief that its business will not be carried on in accordance with law and with integrity and honesty, or
 - (iii) a majority of the members of the board of directors are not Canadian citizens or persons lawfully admitted to Canada for permanent residence and ordinarily resident in Canada;
- (d) the past conduct of the applicant affords reasonable grounds for belief that he will not carry on business in accordance with law and with integrity and honesty;
- (e) the applicant is carrying on activities that are, or will be, if the applicant is licensed, in contravention of this Act or the regulations;
- (f) the premises and accommodation, equipment and facilities in respect of which the licence is issued do not comply with the provisions of this Act and the regulations applicable thereto;
- (g) in the case of an application for a licence, the issuance of the licence is not in the public interest having regard to the needs and wishes of the public in the municipality in which the premises is located.

(2) No licence shall be issued under this section or renewed ^{Where issue of licence prohibited} and no approval of the transfer of a licence shall be given,

- (a) to a person who is under agreement with any person to sell the liquor of any manufacturer;

- (b) to a manufacturer of liquor, or his agent, or to a person who is so associated or connected therewith, or financially interested therein as to be likely to promote the sale thereof;
- (c) to a person who by reason of any agreement, arrangement, concession, obligation or understanding, verbal or written, or direct or indirect, with any other person is or by reason thereof may be likely to promote the sale of liquor of any manufacturer; or
- (d) for premises in which a manufacturer of liquor has an interest, whether freehold or leasehold, or by way of mortgage or charge or other encumbrance, or by way of mortgage, lien or charge upon any chattel property therein and whether such interest is direct or indirect or contingent or by way of suretyship or guarantee.

Publication
of notice of
application

(3) Where an application is made for a licence under this section and, subject to compliance with clause g of subsection 1, the applicant is not disentitled, the Board shall advertise the fact of the application, the nature of the licence applied for and the location of the premises at least twice in a newspaper having general circulation in the municipality in respect of which the licence is applied for and shall fix in the advertisement a time and place in the licensing district for the residents of the municipality to make representations to the Board concerning the application.

Public
representa-
tion

(4) The Board or such member or members thereof as are designated by the chairman shall hold a public meeting in accordance with the notice under subsection 3 for the purpose of receiving the representations referred to therein and shall take such representations into consideration for the purposes of this section.

Expiry

7.—(1) A licence issued under section 4 or 5 expires two years after its issuance or latest renewal, subject to renewal by the Board in accordance with this Act and the regulations.

First
renewal of
existing
licences

(2) The first renewal of a licence continued under section 9 may be made for a term fixed by the Board, being not less than one year and not more than two years.

Continuance
pending
renewal

(3) Where, within the time prescribed therefor or, if no time is prescribed, before expiry of his licence, a licensee has applied for renewal of his licence and paid the prescribed fee, his licence shall be deemed to continue,

(a) until the renewal is granted; or

(b) where he is served with notice that the Board proposes to refuse to grant the renewal, until the time for giving notice requiring a hearing has expired and, where a hearing is required, until the order has become final.

8.—(1) Subject to the regulations, the Board may issue a permit authorizing the holder thereof to keep for sale, offer for sale, sell or serve liquor on a special occasion. Special occasion permits

(2) An applicant for a permit for a special occasion that complies with the regulations is entitled to be issued the permit except upon the grounds set out in clause *d*, *e* or *f* of subsection 1 of section 6 and subsection 2 of section 6 applies in respect of permits, *mutatis mutandis*, in the same way as it applies in respect of licences. Issuance

(3) A permit may be issued by an officer of the Board designated by the Board for the purpose and such officer shall refer to the Board every application for a permit or renewal that he proposes to refuse. Idem

9.—(1) Every licence and permit issued by the Liquor Licence Board under *The Liquor Licence Act*, being chapter 250 of the Revised Statutes of Ontario, 1970, and subsisting immediately before this Act comes into force continues in effect, subject to this Act, until it expires or is otherwise terminated. Continuation of licences and permits

(2) Every application for a licence or permit made to the Liquor Licence Board under *The Liquor Licence Act*, being chapter 250 of the Revised Statutes of Ontario, 1970 and undisposed of when this Act comes into force is continued and shall be dealt with by the Board in accordance with this Act. Continuation of applications

10.—(1) The Board may at any time review a licence or permit on its own initiative and attach such further terms and conditions as, it considers proper to give effect to the purposes of this Act. Imposition of new terms and conditions

(2) The Board may, on the application of the holder of a licence or permit, remove any term or condition to which the licence or permit is made subject under subsection 1 where there is a change of circumstances. Removal of terms and conditions

11.—(1) Subject to section 12, the Board may refuse to issue or approve the transfer of a licence under section 6 or to issue a permit under section 8 where, in the Board's Refusal to issue

opinion, the applicant is not entitled to a licence or permit under the provisions applicable thereto.

Idem

(2) Subject to section 12, the Board may refuse to renew or may suspend or revoke a licence issued under section 5 for any reason referred to in clauses *e* and *f* of subsection 1 of section 6 or where the licensee is in breach of a term or condition of his licence.

Revocation,
suspension
or refusal to
renew

(3) Subject to section 12, the Board may refuse to renew or may suspend or revoke a licence issued under section 6 for any reason that would disentitle the licensee to a licence under section 6 if he were an applicant or where the licensee is in breach of a term or condition of the licence.

Voluntary
cancellation

(4) The Board may cancel a licence upon the request in writing of the licensee in the prescribed form surrendering his licence.

Revocation
of permits

(5) Subject to section 12, the Board may revoke a permit issued under section 8 for any reason that would disentitle the holder to a permit if he were an applicant, or where the holder of the permit is in breach of a term or condition of the permit.

Notice of
proposal

12.—(1) Where the Board proposes,

- (a) to refuse to issue a licence or permit, renew a licence or approve the transfer of a licence;
- (b) to suspend or revoke a licence or permit; or
- (c) to attach terms and conditions to a licence or permit or to refuse to remove a term or condition of a licence or permit under section 10,

it shall serve notice of its proposal together with written reasons therefor on the applicant or holder of the licence or permit affected.

Interim
suspension

(2) Where the Board proposes to suspend or revoke a licence or permit the Board may, where the Board considers it to be necessary in the public interest, by order temporarily suspend the licence or permit and the order shall take effect immediately and where a hearing is required expires fifteen days from the date of the notice requiring the hearing unless the hearing is commenced in which case the Board or Tribunal holding the hearing may extend the time of expiration until the hearing is concluded.

(3) A notice under subsection 1 shall inform the applicant or holder of the licence or permit that he is entitled to a hearing by the Board if he mails or delivers to the Board, within fifteen days after the notice under subsection 1 is served on him, notice in writing requiring a hearing by the Board, and he may so require such a hearing.

Notice
requiring
hearing

(4) Where an applicant or holder of the licence or permit does not require a hearing by the Board in accordance with subsection 3, the Board may carry out the proposal stated in its notice under subsection 1.

Powers of
Board
where no
hearing

13.—(1) Where the Board is required to hold a hearing under section 12, the chairman of the Board shall refer the application to two or more members of the Board designated by the chairman, who shall constitute the Board for the purposes of the hearing and decision.

Members
holding
hearing

(2) The Board shall fix a time and place for the hearing of the application and shall at least ten days before the day fixed cause notice thereof to be served upon the applicant, and upon any other person appearing to the Board to have an interest in the application.

Notice
of hearing

(3) Every person upon whom notice of a hearing is served and any other person added by the Board is a party to the proceedings.

Parties

(4) Each member of the Board has power to administer oaths and affirmations for the purpose of any of its proceedings.

Oaths

(5) The Board shall hold the hearing and give its decision and reasons therefor in writing to the parties to the proceedings.

Decision
and reasons

(6) An order of the Board revoking or suspending a licence or permit takes effect immediately unless otherwise provided in the order but, where a hearing by the Tribunal is required, the Tribunal may grant a stay until the Tribunal makes its decision.

Stay

14.—(1) The Liquor Licence Appeal Tribunal is established and shall consist of not more than seven members who shall be appointed by the Lieutenant Governor in Council, and the Lieutenant Governor in Council shall appoint one of such members as chairman and one or more of them as vice-chairmen.

Liquor
Licence
Appeal
Tribunal

(2) The members of the Tribunal shall be appointed to hold office for a term not exceeding five years and may be reappointed for further successive terms not exceeding five years each.

Term of
office

Remuneration	(3) The members of the Tribunal shall be paid such salaries or other remuneration as may be fixed by the Lieutenant Governor in Council.
Duties of chairman	(4) The chairman shall have general supervision and direction over the conduct of the affairs of the Tribunal, and shall arrange the sittings of the Tribunal and assign members to conduct hearings as circumstances require.
Quorum	(5) Three members of the Tribunal constitute a quorum.
Publication of decisions	(6) The Tribunal shall prepare and periodically publish a summary of its decisions and the reasons therefor.
Oaths	(7) Each member of the Tribunal has power to administer oaths and affirmations for the purpose of any of its proceedings.
Hearing by Tribunal	15. —(1) Any party to a proceeding before the Board under section 13 who is aggrieved by the decision of the Board may, within fifteen days after he is served with the decision of the Board, mail or deliver to the Board and the Tribunal a notice in writing requiring a hearing by the Tribunal.
Idem	(2) Any person to whom a notice is given under section 12 may require a hearing by the Tribunal by giving notice in accordance with subsection 1 notwithstanding that he has not first required a hearing by the Board.
Powers of Tribunal	(3) Where an applicant or holder of the licence or permit requires a hearing by the Tribunal in accordance with subsection 1, the Tribunal shall appoint a time for and hold the hearing and may by order confirm, alter or revoke the decision of the Board or direct the Board to take such action as the Tribunal considers the Board ought to take in accordance with this Act and the regulations, and for such purposes the Tribunal may substitute its opinion for that of the Board.
Conditions of order	(4) The Tribunal may attach such terms and conditions to its order or to the licence or permit as it considers proper to give effect to the purposes of this Act.
Parties	(5) The Board, the applicant or the holder of the licence or permit who has required the hearing and such other persons as the Tribunal may specify are parties to proceedings before the Tribunal under this section.
Members holding hearing not to have taken part in investigation, etc.	16. —(1) A member of the Tribunal holding a hearing shall not have taken part before the hearing in any investigation of the subject-matter of the hearing and shall not communicate directly or indirectly in relation

to the subject-matter of the hearing with any person or with any party or his representative except upon notice to and opportunity for all parties to participate, but the Tribunal may seek legal advice from an adviser independent from the parties and in such case the nature of the advice should be made known to the parties in order that they may make submissions as to the law.

(2) Notice of a hearing under section 15 shall afford the applicant or holder of the licence or permit a reasonable opportunity to show or achieve compliance before the hearing with all lawful requirements for the renewal or retention of the licence or permit. Opportunity to comply

(3) An applicant or holder of the licence or permit who is a party to proceedings under section 15 shall be afforded an opportunity to examine before the hearing any written or documentary evidence that will be produced, or any report the content of which will be given in evidence at the hearing. Examination of documentary evidence

(4) The oral evidence taken before the Tribunal shall be recorded and, if so required, copies or a transcript thereof shall be furnished upon the same terms as in the Supreme Court. Recording of evidence

(5) The findings of fact of the Tribunal pursuant to a hearing or review shall be based exclusively on evidence admissible or matters that may be noticed under sections 15 and 16 of *The Statutory Powers Procedure Act, 1971*. Findings of fact 1971, c. 47

(6) No member of the Tribunal shall participate in a decision of the Tribunal pursuant to a hearing unless he was present throughout the hearing and heard the evidence and argument of the parties and, except with the consent of the parties, no decision of the Tribunal shall be given unless all members so present participate in the decision. Only members at hearing to participate in decision

(7) Documents and things put in evidence at a hearing of the Tribunal shall, upon the request of the person who produced them, be released to him by the Tribunal within a reasonable time after the matter in issue has been finally determined. Release of documentary evidence

(8) Notwithstanding any limitation of time for the giving of a notice requiring a hearing by the Tribunal and where it is satisfied that there are *prima facie* grounds for granting relief and that there are reasonable grounds for applying for the extension, the Tribunal may extend the time for giving the notice either before or after expiration of the time so limited and may give such directions as it considers proper consequent upon such extension. Extension of time for notice requiring hearing

Reasons	(9) The Tribunal shall give its decision and reasons therefor in writing to the parties to the proceedings.
Stay	(10) An order of the Tribunal revoking or suspending a licence or permit takes effect immediately but, where an appeal is made to the Supreme Court, the court may grant a stay until the disposition of the appeal.
Service	17. —(1) Any notice required to be given or served in connection with proceedings of or before the Board or the Tribunal is sufficiently given or served if delivered personally or sent by registered mail addressed to the person to whom delivery or service is required to be made.
Where service deemed to be made	(2) Where service is made by registered mail, the service shall be deemed to be made on the third day after the day of mailing unless the person on whom service is being made establishes that he did not, acting in good faith, through absence, accident, illness or other cause beyond his control receive the notice or order until a later date.
Exception	(3) Notwithstanding subsections 1 and 2, the Tribunal may order any other method of service in respect of any matter before the Tribunal.
Decision of Tribunal re issuance final	18. The decision of the Tribunal respecting the issuance of or refusal to issue a licence or permit or refusal to approve the transfer of a licence is final.
Appeal from decision to revoke, etc.	19. —(1) Any party to proceedings before the Tribunal respecting the revocation, suspension or refusal to renew a licence or permit, or the imposition of or refusal to remove a term or condition of a licence or permit may appeal from the decision of the Tribunal to the Supreme Court in accordance with the rules of court.
Minister entitled to be heard	(2) The Minister is entitled to be heard, by counsel or otherwise, upon the argument of an appeal under this section.
Powers of court on appeal	(3) An appeal under this section may be made on questions of law only.
"Equity share" defined	20. —(1) In this section, "equity share" means a share of a class of shares that carries a voting right either under all circumstances or under some circumstances that have occurred and are continuing.
Notice of transfer of shares	(2) Every licence or permit holder that is a corporation shall notify the Board in writing within thirty days after the issue or the entry of a transfer of any shares of its capital stock <u>or the happening of a condition by which shares</u>

of its capital stock acquire voting rights where such issue, transfer or happening results in,

- (a) any shareholder and shareholders associated with him beneficially owning or controlling at least 10 per cent of the total number of all issued and outstanding equity shares of such stock; or
- (b) any shareholder and shareholders associated with him who already beneficially owns or controls 10 per cent or more of the total number of all issued and outstanding equity shares of such stock increasing such holding.

(3) In calculating the total number of equity shares ^{Idem} of the corporation beneficially owned or controlled for the purposes of this section, the total number shall be calculated as the total of all the shares actually owned or controlled, but each share that carries the right to more than one vote shall be calculated as the number of shares equalling the total number of votes it carries.

(4) Where a licence or permit holder that is a corporation ^{Idem} is aware that a transfer which comes within the provisions of subsection 2 has taken place, it shall notify the Board in writing within thirty days after such knowledge came to the attention of its officers or directors, and not within thirty days of the entry of the transfer.

(5) For the purposes of subsection 2, a shareholder shall ^{Associated shareholder} be deemed to be associated with another shareholder if,

- (a) one shareholder is a company of which the other shareholder is an officer or director;
- (b) one shareholder is a partnership of which the other shareholder is a partner;
- (c) one shareholder is a company that is controlled directly or indirectly by the other shareholder;
- (d) both shareholders are companies and one shareholder is controlled directly or indirectly by the same individual or company that controls directly or indirectly the other shareholder;
- (e) both shareholders are members of a voting trust where the trust relates to shares of a corporation; or
- (f) both shareholders are associated within the meaning of clauses a to e with the same shareholder.

Application
of s. 4 (4)

(6) Where, in the opinion of the Board, an issue or transfer of equity shares of capital stock of a licensed corporation or the happening of a condition referred to in subsection 2 results in a shareholder and shareholders associated with him having a material or substantial interest in the corporation, such issue, transfer or happening shall be deemed to be a change of ownership and unless transferred under subsection 4 of section 4, the licence ceases to exist.

Investiga-
tion by
Minister

21. The Minister may by order appoint a person to make an investigation into any matter to which this Act applies as may be specified in the Minister's order and the person appointed shall report the result of his investigation to the Minister and, for the purposes of the investigation, the person making it has the powers of a commission under Part II of *The Public Inquiries Act, 1971*, which Part applies to such investigation as if it were an inquiry under that Act.

1971, c. 49

Investiga-
tion by
Board

22.—(1) Where, upon a statement made under oath, the Board believes on reasonable and probable grounds that any person has,

- (a) contravened any of the provisions of this Act or the regulations; or
- (b) committed an offence under the *Criminal Code* (Canada) or under the law of any jurisdiction that is relevant to his fitness for a licence or permit under this Act,

R.S.C. 1970,
c. C-34

the Board may, by order, appoint one or more persons to make an investigation to ascertain whether such a contravention of the Act or regulation or the commission of such an offence has occurred and the person appointed shall report the result of his investigation to the Board.

Powers of
investigator

(2) For purposes relevant to the subject-matter of an investigation under this section, the person appointed to make the investigation may inquire into and examine the affairs of the person in respect of whom the investigation is being made and may,

- (a) upon production of his appointment, enter at any reasonable time the premises of such person, not including any premises or part thereof occupied as living accommodation, and examine books, papers, documents and things relevant to the subject-matter of the investigation; and
- (b) inquire into negotiations, transactions, loans, borrowings made by or on behalf of or in relation to such person and into property, assets or things

owned, acquired or alienated in whole or in part by him or any person acting on his behalf that are relevant to the subject-matter of the investigation,

and for the purposes of the inquiry, the person making the investigation has the powers of a commission under Part II of *The Public Inquiries Act, 1971*, which Part applies to such inquiry as if it were an inquiry under that Act.

(3) No person shall obstruct a person appointed to make an investigation under this section or withhold from him or conceal or destroy any books, papers, documents or things relevant to the subject-matter of the investigation. Obstruction of investigator

(4) Where a provincial judge is satisfied, upon an *ex parte* application by the person making an investigation under this section, that the investigation has been ordered and that such person has been appointed to make it and that there is reasonable ground for believing there are in any building, dwelling, receptacle or place any books, papers, documents or things relating to the person whose affairs are being investigated and to the subject-matter of the investigation, the provincial judge may, whether or not an inspection has been made or attempted under clause *a* of subsection 2, issue an order authorizing the person making the investigation, together with such police officer or officers as he calls upon to assist him, to enter and search, if necessary by force, such building, dwelling, receptacle or place for such books, papers, documents or things and to examine them, but every such entry and search shall be made between sunrise and sunset unless the provincial judge, by the order, authorizes the person making the investigation to make the search at night. Search warrant

(5) Any person making an investigation under this section may, upon giving a receipt therefor, remove any books, papers, documents or things examined under clause *a* of subsection 2 or subsection 4 relating to the person whose affairs are being investigated and to the subject-matter of the investigation for the purpose of making copies of such books, papers or documents, but such copying shall be carried out with reasonable dispatch and the books, papers or documents in question shall be promptly thereafter returned to the person whose affairs are being investigated. Removal of books, etc.

(6) Any copy made as provided in subsection 5 and certified to be a true copy by the person making the investigation is admissible in evidence in any action, proceeding or prosecution as *prima facie* proof of the original book, paper or document and its contents. Admissibility of copies

Appointment
of experts

(7) The Board may appoint any expert to examine books, papers, documents or things examined under clause *a* of subsection 2 or under subsection 4.

Inspections

23. Any person designated by the Board in writing may at any reasonable time enter upon any premises in respect of which a licence or permit is issued to make an inspection for the purpose of ensuring that the provisions of this Act and the regulations and the terms and conditions of the licence or permit are being complied with, and no person shall obstruct the person inspecting or withhold or destroy, conceal or refuse to furnish any information or thing required by the person inspecting for the purposes of the inspection.

Special
audit

24.—(1) The Board may at any time authorize and direct a representative of the Board appointed for that purpose to enter upon any premises where the books, accounts or records of or pertaining to any licensed manufacturer are kept or may be, and to inspect, study, audit, take extracts from such books, accounts or other records, and may, upon giving a receipt therefor, remove any such material that relates to the purpose of the inspection for the purpose of making a copy thereof, provided that such copying is carried out with reasonable dispatch and the material in question is promptly thereafter returned to the person being inspected, and no person shall obstruct the person inspecting or withhold or destroy, conceal or refuse to furnish any information or thing required by the person inspecting for the purposes of the inspection.

Admissibility
in evidence

(2) Any copy made as provided in subsection 1 and purporting to be certified by an inspector is admissible in evidence in any action, proceeding or prosecution as *prima facie* proof of the original.

Matters
confidential

25.—(1) Every person employed in the administration of this Act, including any person making an inquiry, inspection or an investigation under this Act, shall preserve secrecy in respect of all matters that come to his knowledge in the course of his duties, employment, inquiry, inspection or investigation and shall not communicate any such matters to any other person except,

- (a) as may be required in connection with the administration of this Act and the regulations or any proceedings under this Act; or
- (b) to his counsel; or
- (c) with the consent of the person to whom the information relates.

(2) No person to whom subsection 1 applies shall be required to give testimony in any civil suit or proceeding with regard to information obtained by him in the course of his duties, employment, inquiry, inspection or investigation except in a proceeding under this Act. Testimony in civil suit

26. Subject to sections 27 and 28 and the regulations, no licence shall be issued or government store established of a class for the sale of liquor in a municipality, Prohibited areas

- (a) in which the sale of liquor or the sale of liquor under that class of licence or store was prohibited under the law as it existed immediately before this Act comes into force; or
- (b) although the sale of liquor is not prohibited by law, no licence has been issued or government store established since the 16th day of September, 1916.

27.—(1) The council of a municipality may submit one or more of the questions prescribed by the regulations respecting the authorization for the sale of liquor in the municipality to a vote of the persons appearing by the last revised list of the municipality and qualified to vote at elections of the Assembly and the council shall submit to the said vote such questions as are requested by petition signed by at least 25 per cent of the persons entitled to vote on the submission. Submission by council to vote

(2) Where 60 per cent of the electors voting on a question, required to be submitted by virtue of clause *a* of section 26, vote in the affirmative, it is lawful to establish government stores, or issue the classes of licences in the municipality accordingly. Affirmative vote

(3) Where 40 per cent of the electors voting on a question required to be submitted by virtue of clause *b* of section 26 vote in the affirmative, it is lawful to establish government stores or issue the classes of licences in the municipality accordingly. Idem

28.—(1) The council of a municipality in which a government store is established or liquor is authorized to be sold under a licence may, and on petition as provided in section 27 shall, submit to the electors such questions respecting the closing of the store or premises as are prescribed by the regulations. Local option to cease sale

(2) Where 60 per cent of the electors voting on the question or questions vote in the negative, from and after the 31st day of March in the following year, any government store established in the municipality shall be closed, or licences Where negative vote polled

of any class for premises in the municipality shall be discontinued, as the case may be, in accordance with the question or questions submitted and voted upon.

Questions
not to be
submitted
again for
three years

29. Where a question is submitted in a municipality under section 27 or 28, neither that question nor any other question shall be submitted in the municipality until after the expiration of a period of three years from the date of such submission.

Appoint-
ment of
managers
for vote

30.—(1) At least five weeks before the taking of a vote upon any question under section 27 or 28, the electors interested in obtaining an affirmative answer and a negative answer respectively to the question or questions may notify the returning officer in writing, signed by at least twenty-five electors, that they have appointed a manager for their side of the question or questions and the manager may appoint agents at the polling places and generally has all the powers and shall perform all the duties and is subject to the like provisions as far as practicable as a candidate at an election to the Assembly, and in case more than one person is named as manager, the first person named on either side shall be manager.

Notice of
filing of
petition

(2) When a petition has been filed with the clerk of the municipality pursuant to section 27 or 28, the clerk shall give notice in writing of the filing to each of the managers, and the managers are, for a period of four weeks from the date of such notice, entitled to examine and inspect the petition.

Date of
polling
1972, c. 95

31. The day fixed for taking the vote on any question or questions shall be the day upon which under *The Municipal Elections Act, 1972*, or any by-law passed under that Act, a poll would be held at the election of members of the council of the municipality, unless the council with the approval of the Board fixes some other day and notifies the clerk of the municipality to that effect, but a poll shall not be held on any such question or questions until after the expiration of two months from the passing of a by-law for submitting the question or questions where the council submits the question or questions without a petition, nor until after the expiration of two months from the filing of the petition, as the case may be.

Who may
vote

32.—(1) The persons qualified to vote upon a question or questions are such persons as are named upon the polling list and would be qualified in other respects to vote at an election to the Assembly held on the day fixed for taking the poll upon the question or questions.

(2) Except as otherwise provided by this Act, the provisions of *The Election Act* respecting, Application of general law
R.S.O. 1970,
c. 142

- (a) the preparation and revision of the lists;
- (b) the time and manner of holding the poll;
- (c) the holding of advance polls;
- (d) the forms to be used and the oaths to be administered;
- (e) the powers and duties of returning officers, deputy returning officers and poll clerks,

and all the provisions relating to corrupt practices, illegal acts, offences and penalties and their prosecutions apply to the taking of a vote under this Act.

(3) Subject to the approval of the Lieutenant Governor in Council, the Chief Election Officer shall give such directions as to taking vote Directions as to taking vote and make such regulations and prepare such forms as appear to him to be necessary in carrying out sections 27 to 34 and for the guidance of returning officers and other officers and persons employed in the taking of the vote, and may modify or alter any of the provisions of *The Election Act* when compliance therewith appears to be inconvenient, impracticable or unnecessary and may make due provision for circumstances that may arise and that are not provided for or contemplated by sections 27 to 34. R.S.O. 1970,
c. 142

(4) The forms to be used at the taking of the vote upon a question or questions shall be the same as nearly as may be as the forms used at an election to the Assembly, but such forms may be modified and altered to such extent as is necessary. Forms

(5) The voters' lists shall be revised as provided in *The Election Act* with respect to the revision of the lists at an election to the Assembly, and polling lists shall be prepared as provided by *The Election Act*. Revision of lists

(6) It is not necessary for the polling lists for use at the taking of a vote to be printed, nor is it necessary to prepare more copies than are required to provide one copy of the list for each polling place, one copy for the returning officer and two copies for persons representing those supporting the affirmative and negative respectively. Polling lists

(7) The treasurer of the municipality shall pay returning officers and other officers and servants such fees for services Fees and expenses

performed under sections 27 to 34, and such expenses incurred in carrying out such sections, as may be fixed by the regulations.

Returning
officer

(8) The returning officer upon the taking of a vote shall be the clerk of the municipality, or, in case of his inability to act or of a vacancy in the office, some person to be appointed by by-law of the municipal council.

Return to
Chief
Election
Officer

(9) The returning officer shall make his return to the Chief Election Officer showing the number of votes polled for the affirmative and negative on the question or questions submitted and, upon the receipt of such return, the Chief Election Officer shall make his return to the Lieutenant Governor in Council and give notice thereof in *The Ontario Gazette* showing the total number of votes polled in the municipality for the affirmative and negative upon the question or questions.

Where
validity of
vote
questioned

1972, c. 95

R.S.O. 1970,
c. 142

33.—(1) Notwithstanding anything in this or any other Act, where the validity of a vote on any question or questions submitted under this Act is questioned, the provisions of *The Municipal Elections Act, 1972* relating to proceedings to declare a seat vacant, apply *mutatis mutandis*, except that no vote under this Act shall be set aside or declared invalid for any reason set out in section 92 of *The Election Act*, and any notice of motion required under *The Municipal Elections Act, 1972* shall be served on such person as the judge or master, as defined in that Act, may direct.

Recounts

(2) Notwithstanding anything in this or any other Act, where a recount of a vote on any question or questions submitted under this Act is requested, sections 81 to 86 of *The Municipal Elections Act, 1972* apply *mutatis mutandis*.

Amalgama-
tions,
annexations
not to affect
status quo
under Act

34.—(1) No amalgamation of a municipality with another municipality and no annexation of the whole or a part of a municipality to another municipality affects the operation of this Act at the time of the amalgamation or annexation in the municipality amalgamated or municipality or part annexed or elsewhere until such operation is affected pursuant to a vote under this Act in the municipality amalgamated or municipality or part annexed, as the case may be.

Who
entitled
to vote

(2) The persons qualified to vote upon any question or questions or to sign a petition pursuant to section 27 or 28 are the persons who are resident in the municipality amalgamated or municipality or part annexed, as the case may be, and who are qualified to be entered on the voters list and to vote at elections to the Assembly.

Interdiction
orders

35.—(1) Where it is made to appear to the satisfaction of the Board that a person, resident or sojourning in Ontario,

by excessive drinking of liquor, misspends, wastes or lessens his estate, or injures his health, or interrupts the peace and happiness of his family, the Board may make an order of interdiction prohibiting the sale of liquor to him until further ordered.

(2) Sections 12, 13 and 15 apply in respect of the proposal to make and the making of the interdiction order in the same manner as to a proposal to revoke and the revocation of a licence. Hearings

(3) Every interdicted person keeping or having in his possession or under his control or consuming any liquor is guilty of an offence, and the judge making the conviction may in and by the conviction declare the liquor and all packages in which the liquor is contained forfeited to Her Majesty in right of Ontario. Disregard of order

(4) Upon an order of interdiction being made, the interdicted person shall deliver forthwith to the Board all liquor in his possession or under his control to be kept for him by the Board until the order of interdiction is revoked or set aside, or, at the option of the Board, such liquor may be purchased from him at a price to be fixed by the Board. Delivery of liquor

(5) The Board shall notify all managers of government stores, and such other persons as are prescribed by the regulations of the order of interdiction. Notice of order

(6) No person shall knowingly procure for, sell or give any liquor to an interdicted person, nor directly or indirectly assist in procuring or supplying any liquor to an interdicted person. Supply of liquor to interdicted person

(7) No interdicted person shall enter upon the premises of a government store. Interdicted person not to enter government store

36. Upon an application to the Board by a person in respect of whom an order of interdiction has been made, and upon it being made to appear to the satisfaction of the Board that the circumstances of the case did not warrant the making of the order of interdiction or upon proof that the interdicted person has refrained from drunkenness for at least twelve months immediately preceding the application, the Board may by order set aside the order of interdiction, and the interdicted person may be restored to all his rights under this Act and the regulations, and the Board shall accordingly forthwith notify all persons notified of the original order. Setting aside of interdiction order

37.—(1) In this section,

(a) "detoxification centre" means a public hospital designated by the regulations;

Interpretation

(b) "municipality" means a municipality responsible for maintaining a police force.

Taking to
detoxifica-
tion centre
in lieu
of charge

(2) Where a police officer finds a person in a public place apparently in contravention of subsection 3 of section 46, he may take such person into custody and, in lieu of laying an information in respect of the contravention, may escort the person to a detoxification centre.

Protection
from
liability

(3) No action or other proceedings for damages shall be instituted against any physician or any hospital or officer or employee thereof on the grounds only that he examines or treats without consent a person in a detoxification centre under subsection 2 who is brought to the centre by a constable or other police officer.

Detention
for
reclamation

38. Where it appears that a person in contravention of subsection 3 of section 46 may benefit therefrom, the judge may order the person to be detained for a period of ninety days or such lesser period as he thinks advisable in an institution for the reclamation of alcoholics that is designated for the purpose by the regulations, but, if at any time during this period the superintendent of the institution is of the opinion that further detention therein will not benefit him, the superintendent may release him.

Registration
of manu-
facturers'
agents

39.—(1) No person shall, directly or indirectly, hold himself out or act as agent or representative of a manufacturer in respect of the sale of liquor or canvass for, receive, take or solicit an order for the sale of liquor by a manufacturer or hold himself out or act as an agent or intermediary for the purpose unless he is registered with the Board as an agent or representative of such manufacturer.

Grounds
for refusal

(2) An applicant for registration is entitled to be registered except where the past conduct of the applicant affords reasonable grounds for belief that he will not carry on business in accordance with the law and with integrity and honesty.

Continuation
of existing
registrations

(3) Every person registered under section 78 of *The Liquor Control Act*, being chapter 249 of the Revised Statutes of Ontario, 1970 immediately before this section comes into force continues to be registered under this Act, subject to the provisions of this Act and the regulations.

Procedures

(4) The provisions of this Act applying to the issuance, refusal, suspension or revocation of a licence apply, *mutatis mutandis*, to the granting, refusal, suspension or revocation of a registration.

Regulations

40. The Lieutenant Governor in Council may make regulations,

- (a) prescribing classes of licences and permits and the terms and conditions to which each class is subject;
- (b) providing for issuance of licences and for renewals and transfer thereof;
- (c) establishing licensing districts and prescribing the maximum number of licences for the sale of liquor in each licensing district or any part thereof;
- (d) prescribing classes of premises and confining the issuance of any specified class or classes of licences to any specified class or classes of premises;
- (e) governing and providing for the issuance of permits for special occasions and prescribing the special occasions for which permits may be issued;
- (f) providing for the registration of agents and representatives of manufacturers;
- (g) requiring the payment of fees in respect of applications for and the issuance, renewal or transfer of licences, permits and registrations;
- (h) prescribing classes of licences or permits that may be issued in respect of premises in a municipality notwithstanding section 26;
- (i) requiring the holders of licences and permits to provide the Board with such information and returns respecting the sale of liquor and the premises, methods and practices connected therewith as is prescribed and requiring any information provided to be verified by oath;
- (j) controlling the advertising of liquor or its availability for sale and requiring that the form of advertisement or public notice be subject to the approval of the Board;
- (k) exempting uses of alcohol from the application of section 49;
- (l) prescribing the questions for the purpose of voting on questions under sections 27 and 28;
- (m) prescribing the form of ballots to be used for voting upon a question submitted in a municipality;
- (n) prescribing standards for premises or the part thereof used in connection with the sale of liquor by the holders of licences and permits and the

accommodation, equipment and facilities therein and prescribing or prohibiting methods and practices in connection with the serving of liquor;

- (o) prescribing the circumstances under which the manufacturer of liquor may give by gift any liquor;
- (p) prescribing the minimum alcoholic content of wine and beer for the purposes of clauses *b* and *p* of section 1;
- (q) prescribing classes of premises in which the sale of liquor is authorized on which a person under the age of eighteen years may enter;
- (r) designating public hospitals as detoxification centres;
- (s) designating institutions for the reclamation of alcoholics detained therein under section 38 and governing the transfer and admission of persons to and detention of persons in such institutions and providing for the government and operation of such institutions;
- (t) prescribing rules for proceedings before the Board or the Tribunal;
- (u) prescribing the form and content of the application for and of the card for proof of age, requiring the payment of a fee for its issuance and prescribing the amount thereof;
- (v) exempting any person, product or premises or any class thereof from any provision of this Act or the regulations;
- (w) prescribing any matter that by this Act is required or permitted to be or referred to as prescribed by the regulations.

Intoxicating
liquor for
purposes of
R.S.C. 1970,
c. I-4

41. Liquor shall be deemed to be an intoxicating liquor for the purposes of the *Importation of Intoxicating Liquors Act* (Canada).

Unlawful
purchase

42. No person shall purchase liquor except from a government store or from a person authorized by licence or permit to sell.

Unlawful
gift by manu-
facturer

43. No manufacturer of liquor shall in Ontario, by himself, his clerk, servant or agent, give any liquor to any

person, except as is permitted by and in accordance with the regulations.

44. No person shall sell or supply liquor or permit liquor to be sold or supplied to any person in or apparently in an intoxicated condition. Sale to persons under influence

45.—(1) No person shall knowingly sell or supply liquor to a person under the age of eighteen years. Minors

(2) No liquor shall be sold or supplied to a person who is apparently under the age of eighteen years, and, in any prosecution for a contravention of this subsection, the justice shall determine from the appearance of such person and other relevant circumstances whether he is apparently under the age of eighteen years. Idem

(3) No person under the age of eighteen years shall have, consume, attempt to purchase, purchase or otherwise obtain liquor. Minor prohibited from purchasing liquor

(4) No person under the age of eighteen years shall enter or remain on premises in which the sale of liquor is authorized except those classes of premises that are prescribed by the regulations. Idem

(5) This section does not apply to the supplying of liquor to a person under the age of eighteen years by the parent or guardian of such person in a residence as defined in section 46 or to the consumption of liquor therein by such person. Application of section

(6) A person who sells or supplies liquor to another person shall be deemed not to be in contravention of subsection 1 or 2 if, before he sells or supplies the liquor, a card in the form prescribed by the regulations is produced to him by the person to whom he sells or supplies the liquor, which purports to be issued by the Board to the person producing it and if there is no apparent inconsistency on the face of the card or between the card and the person producing it. Card as proof of age

46.—(1) In this section, Interpretation

(a) "public place" means a place to which the general public is invited or permitted access, whether or not for a fee;

(b) "residence" means a place that is actually occupied and used as a dwelling, whether or not in common

with other persons, including all premises used in conjunction therewith that is not a public place, and where the place occupied and used as a dwelling is a tent, includes the land immediately adjacent and used in conjunction therewith.

Unlawful
consumption

(2) No person shall consume liquor in any place other than a premises in respect of which a licence or permit is issued or a residence.

Intoxication
in public
place

(3) No person shall be in an intoxicated condition in a public place or in any part of a residence that is used in common by persons occupying more than one dwelling therein.

Arrest
without
warrant

(4) A police officer may arrest without warrant any person whom he finds contravening subsection 3 where to do so is necessary to protect that person or another from injury.

Power to
eject from
licensed
premises

47.—(1) The holder of a licence or permit issued in respect of premises shall ensure that any person whom he has reasonable grounds to believe,

- (a) is unlawfully on the premises;
- (b) is on the premises for an unlawful purpose; or
- (c) is contravening the law on the premises,

does not remain on the premises and may request the person to leave the premises immediately and if the request is not forthwith complied with may remove him or cause him to be removed by the use of no more force than is necessary.

Order to
vacate
premises

(2) Where there are reasonable grounds to believe that a disturbance or breach of the peace is being caused on a licensed premises sufficient to constitute a threat to the public safety, a police officer may require that all persons vacate the premises and the holder of the licence or permit shall ensure, with the assistance of the peace officer, if necessary, that the premises are vacated.

Conveying
liquor in
vehicle
R.S.O. 1970.
c. 202

48.—(1) No person shall drive or have the care or control of a motor vehicle as defined in *The Highway Traffic Act* or motorized snow vehicle, whether it is in motion or not, while there is contained therein any liquor, except,

- (a) liquor in a bottle or package that is unopened and the seal unbroken; or
- (b) liquor in a bottle or package that is packed with personal effects in baggage that is fastened closed or that is not otherwise readily available to any person in the vehicle.

(2) A police officer may at any time, without a warrant, enter and search any vehicle or other conveyance in which he has reasonable grounds to believe that liquor is unlawfully kept or had, and search any person found in such vehicle or other conveyance.

Search of
vehicles

49. No person shall,

Unlawful
consumption
of alcohol

(a) drink alcohol in a form that is not a liquor; or

(b) supply alcohol in a form that is not a liquor to another when he knows or ought to know that the other intends it to be used as a drink.

50.—(1) No person shall advertise liquor or display public notice that liquor is available for sale except in accordance with the regulations.

Regulation of
advertising

(2) Where the Board believes on reasonable and probable grounds that any advertisement or public notice is in contravention of this Act or the regulations, the Board may order the immediate cessation of the use of such advertisement or notice, and the provisions of this Act applying to the imposition by the Board of a condition of the licence apply *mutatis mutandis* to the order, and the order of the Board shall take effect immediately, but the Tribunal may grant a stay until the Board's order becomes final.

Order of
cessation

51.—(1) Liquor kept for sale or offered for sale in contravention of section 4 and liquor purchased in contravention of section 42 is forfeited to the Board.

Forfeiture
of liquor

(2) Where liquor to which subsection 1 applies is seized by a police officer, he shall forthwith make or cause to be made a report of the particulars of the seizure to the Board and shall deliver the liquor or cause the liquor to be delivered to the Board as soon as the due process of the law permits.

Report and
delivery

52.—(1) Any person who is over the age of eighteen years and not an interdicted person may apply to the Board for a card certifying that such person has attained the age of eighteen years.

Card
certifying
age

(2) A card issued by the Board shall contain a photographic likeness of the applicant and otherwise be in the form prescribed by the regulations.

Form of
card

(3) No person shall supply false information or a false photographic likeness in an application made under subsection 1, or alter in any way, any card issued by the Board.

False
information

False
card

(4) No person shall present as evidence of his age any card purporting to be issued by the Board other than a card issued to him by the Board.

Civil
liability

53. Where any person or his servant or agent sells liquor to or for a person whose condition is such that the consumption of liquor would apparently intoxicate him or increase his intoxication so that he would be in danger of causing injury to his person or injury or damage to the person or property of others, if the person to or for whom the liquor is sold while so intoxicated,

R.S.O. 1970,
c. 164

(a) commits suicide or meets death by accident, an action under *The Fatal Accidents Act* lies against the person who or whose servant or agent sold the liquor; or

(b) causes injury or damage to the person or property of another person, such other person is entitled to recover an amount to compensate him for his injury or damage from the person who or whose servant or agent sold the liquor.

Arrest
without
warrant

54. Where a police officer finds a person contravening this Act and such person refuses to give his name and address or there are reasonable grounds to believe that the name or address given is false, the police officer may arrest such person without warrant.

Offences

55. —(1) Every person who,

(a) knowingly furnishes false information in any application under this Act or in any statement or return required to be furnished under this Act or the regulations;

(b) knowingly fails to comply with an order of the Board under subsection 2 of section 50;

(c) contravenes any provision of this Act or the regulations,

and every director or officer of a corporation who knowingly concurs in such furnishing, failure or contravention is guilty of an offence and on summary conviction is liable to a fine of not more than \$2,000 or to imprisonment for a term of not more than one year, or to both.

Corpora-
tions

(2) Where a corporation is convicted of an offence under subsection 1, the maximum penalty that may be imposed upon the corporation is \$25,000 and not as provided therein.

(3) No proceeding to prosecute under clause *a* or *b* of sub-section 1 shall be instituted except with the consent of the Minister. Consent of Minister

(4) No proceeding to prosecute under clause *a* of sub-section 1 shall be commenced more than one year after the facts upon which the proceeding is based first came to the knowledge of the Board. Limitation

(5) No proceeding to prosecute under clause *b* or *c* of sub-section 1 shall be commenced more than two years after the time when the subject-matter of the proceeding arose. Idem

56.—(1) Where liquor is found by a police officer under circumstances where the liquor constitutes evidence necessary to prove a contravention of this Act, the police officer may seize and take away the liquor and packages in which it is kept. Seizure of liquor

(2) A provincial court judge may, upon the application of any person made within thirty days of a seizure under sub-section 1, order that the things seized be restored forthwith to the applicant where the judge is satisfied that, Order of restoration

(a) the applicant is entitled to possession of the things seized; and

(b) the things seized are not required as evidence in any proceedings in respect of an offence under this Act,

and where the judge is satisfied that the applicant is entitled to possession of the things seized but is not satisfied as to the matter mentioned in clause *b*, he shall order that the things seized be restored to the applicant,

(c) upon the expiration of three months from the date of the seizure, if no proceedings in respect of an offence under this Act have been commenced; or

(d) upon the final conclusion of any such proceedings.

(3) Where no application has been made for the return of any thing seized under subsection 1 or an application has been made but upon the hearing thereof no order of restoration has been made, the thing seized is forfeited to the Board. Forfeiture

(4) Where a person is convicted of an offence under this Act, any thing seized under subsection 1 by means of which the offence was committed is forfeited to the Board. Idem

Certificate
as evidence

57. A statement as to,

- (a) the licensing or non-licensing of any person ;
- (b) the filing or non-filing of any document or material required or permitted to be filed with the Board ;
- (c) the time when the facts upon which proceedings are based first came to the knowledge of the Board ; or
- (d) any other matter pertaining to such licence, non-licensing, filing or non-filing,

purporting to be certified by the chairman of the Board is, without proof of the office or signature of the chairman, receivable in evidence as *prima facie* proof of the facts stated therein for all purposes in any action, proceeding or prosecution.

Analysis

58. In any prosecution under this Act or the regulations, upon production of a certificate or report signed or purporting to be signed by a federal or provincial analyst as to the analysis or ingredients of any liquor or other fluid or any preparation, compound or substance, the certificate or report is conclusive evidence of the facts stated in the certificate or report and of the authority of the person giving or making it without any proof of appointment or signature.

Exception
for drugs
and
medicines
1974, c. 47

59. Nothing in this Act prevents the sale,

- (a) of a drug dispensed as a medicine by a person authorized to do so under *The Health Disciplines Act, 1974* ;
- (b) of a drug compounded, dispensed or supplied in and by a hospital or a health or custodial institution approved or licensed under any general or special Act under the authority of a prescriber as defined in Part VI of *The Health Disciplines Act, 1974* for a person under health care provided by such hospital or health or custodial institution ;
- (c) subject to section 49, of a medicine registered under the *Proprietary or Patent Medicine Act* (Canada) ; or
- (d) of a drug to a person authorized under *The Health Disciplines Act, 1974* to dispense, prescribe or administer drugs,

R.S.C. 1970,
P-25

or the purchase of such drug or medicine sold in accordance with this section.

60. The following are repealed:

Repeals

1. *The Liquor Licence Act*, being chapter 250 of the Revised Statutes of Ontario, 1970.
2. *The Liquor Licence Amendment Act, 1971*, being chapter 35.
3. *The Liquor Licence Amendment Act, 1973*, being chapter 68.
4. Paragraph 19 of the Schedule to *The Age of Majority and Accountability Act, 1971*, being chapter 98.

61. This Act comes into force on a day to be named by proclamation of the Lieutenant Governor.

Commence-
ment

62. This Act may be cited as *The Liquor Licence Act, 1975*.

Short title

1st Reading

April 15th, 1975

2nd Reading

June 3rd, 1975

3rd Reading

THE HON. S. B. HANDLEMAN
Minister of Consumer and
Commercial Relations

(Reprinted as amended by the
Committee of the Whole House)

BILL 45

5TH SESSION, 29TH LEGISLATURE, ONTARIO
24 ELIZABETH II, 1975

The Liquor Licence Act, 1975

THE HON. S. B. HANDLEMAN
Minister of Consumer and Commercial Relations

BILL 45

1975

The Liquor Licence Act, 1975

HER MAJESTY, by and with the advice and consent of the Legislative Assembly of the Province of Ontario, enacts as follows:

1. In this Act,

Interpre-
tation

- (a) "alcohol" means a product of fermentation or distillation of grains, fruits or other agricultural products rectified once or more than once whatever may be the origin thereof, and includes synthetic ethyl alcohol;
- (b) "beer" means any beverage containing alcohol in a proportion that is greater than that prescribed by the regulations obtained by the fermentation of an infusion or decoction of barley, malt and hops or of any similar products in drinkable water;
- (c) "Board" means the Liquor Licence Board established under section 2;
- (d) "government store" means a government store as established under *The Liquor Control Act, 1975*; 1975, c. 27
- (e) "licence" means a licence issued under this Act;
- (f) "liquor" means spirits, wine and beer or any combination thereof and includes any alcohol in a form appropriate for human consumption as a beverage alone or in combination with any other matter;
- (g) "manufacturer" means a person authorized under an Act of the Parliament of Canada to manufacture or produce any liquor;

- (h) "Minister" means the Minister of Consumer and Commercial Relations;
- (i) "municipality" means a city, town, village or township;
- (j) "Ontario wine" means,
 - (i) wine produced from grapes, cherries, apples or other fruits grown in Ontario or the concentrated juice thereof, and includes Ontario wine to which has been added herbs, water, honey, sugar or the distillate of Ontario wine, or
 - (ii) wine produced by the alcoholic fermentation of Ontario honey with or without the addition of caramel, natural botanical flavours or the distillate of Ontario honey wine;
- (k) "permit" means a permit issued under this Act;
- (l) "regulations" means the regulations made under this Act;
- (m) "sell" means to supply for remuneration, directly or indirectly, in any manner by which the cost is recovered from the person supplied, alone or in combination with others, and "sale" has a corresponding meaning;
- (n) "spirits" means any beverage that contains alcohol obtained by distillation;
- (o) "Tribunal" means the Liquor Licence Appeal Tribunal established under section 14;
- (p) "wine" means any beverage containing alcohol in a proportion that is greater than that prescribed by the regulations obtained by the fermentation of the natural sugar contents of fruits, including grapes, apples and other agricultural products containing sugar, and including honey and milk.

Liquor
Licence
Board
established

2.—(1) The Liquor Licence Board is established and shall consist of not more than seven members appointed by the Lieutenant Governor in Council.

Chairman,
vice-
chairmen

(2) The Lieutenant Governor in Council may designate one of the members of the Board as chairman and one or more of the members as vice-chairmen.

(3) The members of the Board shall be appointed to hold office for a term not exceeding five years and may be reappointed for further successive terms not exceeding five years each. ^{Term}

(4) The members of the Board shall be paid such salaries or other remuneration as may be fixed by the Lieutenant Governor in Council. ^{Remuneration}

(5) The chairman shall be the chief executive officer of the Board and shall devote his full time to the work of the Board, and the other members shall devote such time as may be necessary for the due performance of their duties as members of the Board. ^{Duties of chairman}

(6) The Board is a corporation to which *The Corporations Act* does not apply. ^{Corporation R.S.O. 1970, c. 89}

(7) The Board shall perform such duties as are assigned to it by or under this and any other Act and shall administer and enforce this Act and the regulations. ^{Duties}

(8) Subject to the approval of the Lieutenant Governor in Council, the Board may appoint such officers, inspectors and employees and retain such assistance as is considered necessary and may determine their salary, remuneration and terms and conditions of employment. ^{Staff}

(9) The revenues of the Board shall be paid to the Treasurer of Ontario and the moneys required for the expenditures of the Board shall, until the 1st day of April, 1976, be paid out of the Consolidated Revenue Fund and thereafter shall be paid out of moneys appropriated therefor by the Legislature. ^{Finances}

3.—(1) Subject to subsection 2, the assets, liabilities and obligations of the Liquor Licence Board of Ontario, under *The Liquor Licence Act*, being chapter 250 of the Revised Statutes of Ontario, 1970, existing immediately before this Act comes into force, are vested in and bind the Crown. ^{Transfer of assets and obligations}

(2) Every contract or agreement, including collective agreements, respecting the employees of the Liquor Licence Board of Ontario under *The Liquor Licence Act*, being chapter 250 of the Revised Statutes of Ontario, 1970 and existing immediately before this Act comes into force continues and is binding on the Liquor Licence Board established by this Act. ^{Preservation of employment agreements}

(3) For the purposes of and subject to *The Crown Employees Collective Bargaining Act, 1972*, and the regulations ^{Bargaining unit and agent under 1972, c. 67}

thereunder, and subject to any further designation under that Act, the persons employed in the work of the Board are designated as a unit of employees that is an appropriate bargaining unit for collective bargaining purposes and the Liquor Control Board of Ontario and Liquor Licence Board of Ontario Employees' Association is designated as the employee organization that has representation rights in relation to such bargaining unit.

Licences and permits for sale of liquor

4.—(1) No person shall keep for sale, offer for sale or sell liquor except under the authority of a licence or permit issued by the Board.

Soliciting orders

(2) No person shall canvass for, receive or solicit orders for the sale of liquor unless he is the holder of a licence or permit issued by the Board under subsection 1 or unless he is registered under section 39.

Exception for beer and wine stores 1975, c. 27

(3) Subsections 1 and 2 do not apply to the sale of liquor by or under the authority of the Liquor Control Board of Ontario under *The Liquor Control Act, 1975*.

Transfer of licences

(4) A licence issued under this section may be transferred, subject to the approval of the Board, on the application of the transferee.

Temporary transfers

(5) The Board may approve the transfer of a licence for a period of not more than six months, to permit the orderly disposition of licensed premises by a trustee in bankruptcy, receiver or liquidator authorized by statute or a court for the purpose or a mortgagee who enters into possession under the mortgage and section 6 does not apply.

Manufacturer's licence to sell

5.—(1) The Board may, subject to the approval of the Minister, issue a licence authorizing the manufacturer of spirits, beer or Ontario wine to keep for sale, offer for sale or sell such spirits, beer or Ontario wine to the Liquor Control Board of Ontario under *The Liquor Control Act, 1975* and the decision of the Board to issue or to refuse to issue a licence, with the approval of the Minister, is final.

Conditions

(2) A licence under subsection 1 may be issued subject to such terms or conditions as are prescribed in the licence or by the regulations.

Licence to sell other than by manufacturer

6.—(1) An applicant for a licence, or for approval of the transfer of a licence other than a licence referred to in section 5, is entitled to be issued the licence or have the transfer approved except where,

- (a) having regard to his financial position, the applicant cannot reasonably be expected to be financially responsible in the conduct of his business;
- (b) the applicant is not a Canadian citizen or a person lawfully admitted to Canada for permanent residence and ordinarily resident in Canada;
- (c) the applicant is a corporation and,
 - (i) having regard to its financial position, it cannot reasonably be expected to be financially responsible in the conduct of its business; or
 - (ii) the past conduct of its officers or directors or of a shareholder who owns or controls 10 per cent or more of its issued and outstanding equity shares as determined under section 20 affords reasonable grounds for belief that its business will not be carried on in accordance with law and with integrity and honesty, or
 - (iii) a majority of the members of the board of directors are not Canadian citizens or persons lawfully admitted to Canada for permanent residence and ordinarily resident in Canada;
- (d) the past conduct of the applicant affords reasonable grounds for belief that he will not carry on business in accordance with law and with integrity and honesty;
- (e) the applicant is carrying on activities that are, or will be, if the applicant is licensed, in contravention of this Act or the regulations;
- (f) the premises and accommodation, equipment and facilities in respect of which the licence is issued do not comply with the provisions of this Act and the regulations applicable thereto;
- (g) in the case of an application for a licence, the issuance of the licence is not in the public interest having regard to the needs and wishes of the public in the municipality in which the premises is located.

(2) No licence shall be issued under this section or renewed ^{Where issue of licence prohibited} and no approval of the transfer of a licence shall be given,

- (a) to a person who is under agreement with any person to sell the liquor of any manufacturer;

- (b) to a manufacturer of liquor, or his agent, or to a person who is so associated or connected therewith, or financially interested therein as to be likely to promote the sale thereof;
- (c) to a person who by reason of any agreement, arrangement, concession, obligation or understanding, verbal or written, or direct or indirect, with any other person is or by reason thereof may be likely to promote the sale of liquor of any manufacturer; or
- (d) for premises in which a manufacturer of liquor has an interest, whether freehold or leasehold, or by way of mortgage or charge or other encumbrance, or by way of mortgage, lien or charge upon any chattel property therein and whether such interest is direct or indirect or contingent or by way of suretyship or guarantee.

Publication
of notice of
application

(3) Where an application is made for a licence under this section and, subject to compliance with clause *g* of subsection 1, the applicant is not disentitled, the Board shall advertise the fact of the application, the nature of the licence applied for and the location of the premises at least twice in a newspaper having general circulation in the municipality in respect of which the licence is applied for and shall fix in the advertisement a time and place in the licensing district for the residents of the municipality to make representations to the Board concerning the application.

Public
representa-
tion

(4) The Board or such member or members thereof as are designated by the chairman shall hold a public meeting in accordance with the notice under subsection 3 for the purpose of receiving the representations referred to therein and shall take such representations into consideration for the purposes of this section.

Expiry

7.—(1) A licence issued under section 4 or 5 expires two years after its issuance or latest renewal, subject to renewal by the Board in accordance with this Act and the regulations.

First
renewal of
existing
licences

(2) The first renewal of a licence continued under section 9 may be made for a term fixed by the Board, being not less than one year and not more than two years.

Continuance
pending
renewal

(3) Where, within the time prescribed therefor or, if no time is prescribed, before expiry of his licence, a licensee has applied for renewal of his licence and paid the prescribed fee, his licence shall be deemed to continue,

(a) until the renewal is granted; or

(b) where he is served with notice that the Board proposes to refuse to grant the renewal, until the time for giving notice requiring a hearing has expired and, where a hearing is required, until the order has become final.

8.—(1) Subject to the regulations, the Board may issue a permit authorizing the holder thereof to keep for sale, offer for sale, sell or serve liquor on a special occasion. Special occasion permits

(2) An applicant for a permit for a special occasion that complies with the regulations is entitled to be issued the permit except upon the grounds set out in clause *d*, *e* or *f* of subsection 1 of section 6 and subsection 2 of section 6 applies in respect of permits, *mutatis mutandis*, in the same way as it applies in respect of licences. Issuance

(3) A permit may be issued by an officer of the Board designated by the Board for the purpose and such officer shall refer to the Board every application for a permit or renewal that he proposes to refuse. Idem

9.—(1) Every licence and permit issued by the Liquor Licence Board under *The Liquor Licence Act*, being chapter 250 of the Revised Statutes of Ontario, 1970, and subsisting immediately before this Act comes into force continues in effect, subject to this Act, until it expires or is otherwise terminated. Continuation of licences and permits

(2) Every application for a licence or permit made to the Liquor Licence Board under *The Liquor Licence Act*, being chapter 250 of the Revised Statutes of Ontario, 1970 and undisposed of when this Act comes into force is continued and shall be dealt with by the Board in accordance with this Act. Continuation of applications

10.—(1) The Board may at any time review a licence or permit on its own initiative and attach such further terms and conditions as, it considers proper to give effect to the purposes of this Act. Imposition of new terms and conditions

(2) The Board may, on the application of the holder of a licence or permit, remove any term or condition to which the licence or permit is made subject under subsection 1 where there is a change of circumstances. Removal of terms and conditions

11.—(1) Subject to section 12, the Board may refuse to issue or approve the transfer of a licence under section 6 or to issue a permit under section 8 where, in the Board's Refusal to issue

opinion, the applicant is not entitled to a licence or permit under the provisions applicable thereto.

Idem

(2) Subject to section 12, the Board may refuse to renew or may suspend or revoke a licence issued under section 5 for any reason referred to in clauses *e* and *f* of subsection 1 of section 6 or where the licensee is in breach of a term or condition of his licence.

Revocation,
suspension
or refusal to
renew

(3) Subject to section 12, the Board may refuse to renew or may suspend or revoke a licence issued under section 6 for any reason that would disentitle the licensee to a licence under section 6 if he were an applicant or where the licensee is in breach of a term or condition of the licence.

Voluntary
cancellation

(4) The Board may cancel a licence upon the request in writing of the licensee in the prescribed form surrendering his licence.

Revocation
of permits

(5) Subject to section 12, the Board may revoke a permit issued under section 8 for any reason that would disentitle the holder to a permit if he were an applicant, or where the holder of the permit is in breach of a term or condition of the permit.

Notice of
proposal

12.—(1) Where the Board proposes,

- (a) to refuse to issue a licence or permit, renew a licence or approve the transfer of a licence;
- (b) to suspend or revoke a licence or permit; or
- (c) to attach terms and conditions to a licence or permit or to refuse to remove a term or condition of a licence or permit under section 10,

it shall serve notice of its proposal together with written reasons therefor on the applicant or holder of the licence or permit affected.

Interim
suspension

(2) Where the Board proposes to suspend or revoke a licence or permit the Board may, where the Board considers it to be necessary in the public interest, by order temporarily suspend the licence or permit and the order shall take effect immediately and where a hearing is required expires fifteen days from the date of the notice requiring the hearing unless the hearing is commenced in which case the Board or Tribunal holding the hearing may extend the time of expiration until the hearing is concluded.

(3) A notice under subsection 1 shall inform the applicant or holder of the licence or permit that he is entitled to a hearing by the Board if he mails or delivers to the Board, within fifteen days after the notice under subsection 1 is served on him, notice in writing requiring a hearing by the Board, and he may so require such a hearing. Notice requiring hearing

(4) Where an applicant or holder of the licence or permit does not require a hearing by the Board in accordance with subsection 3, the Board may carry out the proposal stated in its notice under subsection 1. Powers of Board where no hearing

13.—(1) Where the Board is required to hold a hearing under section 12, the chairman of the Board shall refer the application to two or more members of the Board designated by the chairman, who shall constitute the Board for the purposes of the hearing and decision. Members holding hearing

(2) The Board shall fix a time and place for the hearing of the application and shall at least ten days before the day fixed cause notice thereof to be served upon the applicant, and upon any other person appearing to the Board to have an interest in the application. Notice of hearing

(3) Every person upon whom notice of a hearing is served and any other person added by the Board is a party to the proceedings. Parties

(4) Each member of the Board has power to administer oaths and affirmations for the purpose of any of its proceedings. Oaths

(5) The Board shall hold the hearing and give its decision and reasons therefor in writing to the parties to the proceedings. Decision and reasons

(6) An order of the Board revoking or suspending a licence or permit takes effect immediately unless otherwise provided in the order but, where a hearing by the Tribunal is required, the Tribunal may grant a stay until the Tribunal makes its decision. Stay

14.—(1) The Liquor Licence Appeal Tribunal is established and shall consist of not more than seven members who shall be appointed by the Lieutenant Governor in Council, and the Lieutenant Governor in Council shall appoint one of such members as chairman and one or more of them as vice-chairmen. Liquor Licence Appeal Tribunal

(2) The members of the Tribunal shall be appointed to hold office for a term not exceeding five years and may be reappointed for further successive terms not exceeding five years each. Term of office

Remuneration	(3) The members of the Tribunal shall be paid such salaries or other remuneration as may be fixed by the Lieutenant Governor in Council.
Duties of chairman	(4) The chairman shall have general supervision and direction over the conduct of the affairs of the Tribunal, and shall arrange the sittings of the Tribunal and assign members to conduct hearings as circumstances require.
Quorum	(5) Three members of the Tribunal constitute a quorum.
Publication of decisions	(6) The Tribunal shall prepare and periodically publish a summary of its decisions and the reasons therefor.
Oaths	(7) Each member of the Tribunal has power to administer oaths and affirmations for the purpose of any of its proceedings.
Hearing by Tribunal	15. —(1) Any party to a proceeding before the Board under section 13 who is aggrieved by the decision of the Board may, within fifteen days after he is served with the decision of the Board, mail or deliver to the Board and the Tribunal a notice in writing requiring a hearing by the Tribunal.
Idem	(2) Any person to whom a notice is given under section 12 may require a hearing by the Tribunal by giving notice in accordance with subsection 1 notwithstanding that he has not first required a hearing by the Board.
Powers of Tribunal	(3) Where an applicant or holder of the licence or permit requires a hearing by the Tribunal in accordance with subsection 1, the Tribunal shall appoint a time for and hold the hearing and may by order confirm, alter or revoke the decision of the Board or direct the Board to take such action as the Tribunal considers the Board ought to take in accordance with this Act and the regulations, and for such purposes the Tribunal may substitute its opinion for that of the Board.
Conditions of order	(4) The Tribunal may attach such terms and conditions to its order or to the licence or permit as it considers proper to give effect to the purposes of this Act.
Parties	(5) The Board, the applicant or the holder of the licence or permit who has required the hearing and such other persons as the Tribunal may specify are parties to proceedings before the Tribunal under this section.
Members holding hearing not to have taken part in investigation, etc.	16. —(1) A member of the Tribunal holding a hearing shall not have taken part before the hearing in any investigation of the subject-matter of the hearing and shall not communicate directly or indirectly in relation

to the subject-matter of the hearing with any person or with any party or his representative except upon notice to and opportunity for all parties to participate, but the Tribunal may seek legal advice from an adviser independent from the parties and in such case the nature of the advice should be made known to the parties in order that they may make submissions as to the law.

(2) Notice of a hearing under section 15 shall afford the applicant or holder of the licence or permit a reasonable opportunity to show or achieve compliance before the hearing with all lawful requirements for the renewal or retention of the licence or permit. Opportunity to comply

(3) An applicant or holder of the licence or permit who is a party to proceedings under section 15 shall be afforded an opportunity to examine before the hearing any written or documentary evidence that will be produced, or any report the content of which will be given in evidence at the hearing. Examination of documentary evidence

(4) The oral evidence taken before the Tribunal shall be recorded and, if so required, copies or a transcript thereof shall be furnished upon the same terms as in the Supreme Court. Recording of evidence

(5) The findings of fact of the Tribunal pursuant to a hearing or review shall be based exclusively on evidence admissible or matters that may be noticed under sections 15 and 16 of *The Statutory Powers Procedure Act, 1971*. Findings of fact 1971, c. 47

(6) No member of the Tribunal shall participate in a decision of the Tribunal pursuant to a hearing unless he was present throughout the hearing and heard the evidence and argument of the parties and, except with the consent of the parties, no decision of the Tribunal shall be given unless all members so present participate in the decision. Only members at hearing to participate in decision

(7) Documents and things put in evidence at a hearing of the Tribunal shall, upon the request of the person who produced them, be released to him by the Tribunal within a reasonable time after the matter in issue has been finally determined. Release of documentary evidence

(8) Notwithstanding any limitation of time for the giving of a notice requiring a hearing by the Tribunal and where it is satisfied that there are *prima facie* grounds for granting relief and that there are reasonable grounds for applying for the extension, the Tribunal may extend the time for giving the notice either before or after expiration of the time so limited and may give such directions as it considers proper consequent upon such extension. Extension of time for notice requiring hearing

Reasons	(9) The Tribunal shall give its decision and reasons therefor in writing to the parties to the proceedings.
Stay	(10) An order of the Tribunal revoking or suspending a licence or permit takes effect immediately but, where an appeal is made to the Supreme Court, the court may grant a stay until the disposition of the appeal.
Service	17. —(1) Any notice required to be given or served in connection with proceedings of or before the Board or the Tribunal is sufficiently given or served if delivered personally or sent by registered mail addressed to the person to whom delivery or service is required to be made.
Where service deemed to be made	(2) Where service is made by registered mail, the service shall be deemed to be made on the third day after the day of mailing unless the person on whom service is being made establishes that he did not, acting in good faith, through absence, accident, illness or other cause beyond his control receive the notice or order until a later date.
Exception	(3) Notwithstanding subsections 1 and 2, the Tribunal may order any other method of service in respect of any matter before the Tribunal.
Decision of Tribunal re issuance final	18. The decision of the Tribunal respecting the issuance of or refusal to issue a licence or permit or refusal to approve the transfer of a licence is final.
Appeal from decision to revoke, etc.	19. —(1) Any party to proceedings before the Tribunal respecting the revocation, suspension or refusal to renew a licence or permit, or the imposition of or refusal to remove a term or condition of a licence or permit may appeal from the decision of the Tribunal to the Supreme Court in accordance with the rules of court.
Minister entitled to be heard	(2) The Minister is entitled to be heard, by counsel or otherwise, upon the argument of an appeal under this section.
Powers of court on appeal	(3) An appeal under this section may be made on questions of law only.
"Equity share" defined	20. —(1) In this section, "equity share" means a share of a class of shares that carries a voting right either under all circumstances or under some circumstances that have occurred and are continuing.
Notice of transfer of shares	(2) Every licence or permit holder that is a corporation shall notify the Board in writing within thirty days after the issue or the entry of a transfer of any shares of its capital stock or the happening of a condition by which shares

of its capital stock acquire voting rights where such issue, transfer or happening results in,

- (a) any shareholder and shareholders associated with him beneficially owning or controlling at least 10 per cent of the total number of all issued and outstanding equity shares of such stock; or
- (b) any shareholder and shareholders associated with him who already beneficially owns or controls 10 per cent or more of the total number of all issued and outstanding equity shares of such stock increasing such holding.

(3) In calculating the total number of equity shares ^{Idem} of the corporation beneficially owned or controlled for the purposes of this section, the total number shall be calculated as the total of all the shares actually owned or controlled, but each share that carries the right to more than one vote shall be calculated as the number of shares equalling the total number of votes it carries.

(4) Where a licence or permit holder that is a corporation ^{Idem} is aware that a transfer which comes within the provisions of subsection 2 has taken place, it shall notify the Board in writing within thirty days after such knowledge came to the attention of its officers or directors, and not within thirty days of the entry of the transfer.

(5) For the purposes of subsection 2, a shareholder shall ^{Associated shareholder} be deemed to be associated with another shareholder if,

- (a) one shareholder is a company of which the other shareholder is an officer or director;
- (b) one shareholder is a partnership of which the other shareholder is a partner;
- (c) one shareholder is a company that is controlled directly or indirectly by the other shareholder;
- (d) both shareholders are companies and one shareholder is controlled directly or indirectly by the same individual or company that controls directly or indirectly the other shareholder;
- (e) both shareholders are members of a voting trust where the trust relates to shares of a corporation; or
- (f) both shareholders are associated within the meaning of clauses a to e with the same shareholder.

Application
of s. 4 (4)

(6) Where, in the opinion of the Board, an issue or transfer of equity shares of capital stock of a licensed corporation or the happening of a condition referred to in subsection 2 results in a shareholder and shareholders associated with him having a material or substantial interest in the corporation, such issue, transfer or happening shall be deemed to be a change of ownership and unless transferred under subsection 4 of section 4, the licence ceases to exist.

Investiga-
tion by
Minister

21. The Minister may by order appoint a person to make an investigation into any matter to which this Act applies as may be specified in the Minister's order and the person appointed shall report the result of his investigation to the Minister and, for the purposes of the investigation, the person making it has the powers of a commission under Part II of *The Public Inquiries Act, 1971*, which Part applies to such investigation as if it were an inquiry under that Act.

1971, c. 49

Investiga-
tion by
Board

22.—(1) Where, upon a statement made under oath, the Board believes on reasonable and probable grounds that any person has,

(a) contravened any of the provisions of this Act or the regulations; or

R.S.C. 1970,
c. C-34

(b) committed an offence under the *Criminal Code* (Canada) or under the law of any jurisdiction that is relevant to his fitness for a licence or permit under this Act,

the Board may, by order, appoint one or more persons to make an investigation to ascertain whether such a contravention of the Act or regulation or the commission of such an offence has occurred and the person appointed shall report the result of his investigation to the Board.

Powers of
investigator

(2) For purposes relevant to the subject-matter of an investigation under this section, the person appointed to make the investigation may inquire into and examine the affairs of the person in respect of whom the investigation is being made and may,

(a) upon production of his appointment, enter at any reasonable time the premises of such person, not including any premises or part thereof occupied as living accommodation, and examine books, papers, documents and things relevant to the subject-matter of the investigation; and

(b) inquire into negotiations, transactions, loans, borrowings made by or on behalf of or in relation to such person and into property, assets or things

owned, acquired or alienated in whole or in part by him or any person acting on his behalf that are relevant to the subject-matter of the investigation,

and for the purposes of the inquiry, the person making the investigation has the powers of a commission under Part II of *The Public Inquiries Act, 1971*, which Part applies to such inquiry as if it were an inquiry under that Act.

(3) No person shall obstruct a person appointed to make an investigation under this section or withhold from him or conceal or destroy any books, papers, documents or things relevant to the subject-matter of the investigation. Obstruction of investigator

(4) Where a provincial judge is satisfied, upon an *ex parte* application by the person making an investigation under this section, that the investigation has been ordered and that such person has been appointed to make it and that there is reasonable ground for believing there are in any building, dwelling, receptacle or place any books, papers, documents or things relating to the person whose affairs are being investigated and to the subject-matter of the investigation, the provincial judge may, whether or not an inspection has been made or attempted under clause *a* of subsection 2, issue an order authorizing the person making the investigation, together with such police officer or officers as he calls upon to assist him, to enter and search, if necessary by force, such building, dwelling, receptacle or place for such books, papers, documents or things and to examine them, but every such entry and search shall be made between sunrise and sunset unless the provincial judge, by the order, authorizes the person making the investigation to make the search at night. Search warrant

(5) Any person making an investigation under this section may, upon giving a receipt therefor, remove any books, papers, documents or things examined under clause *a* of subsection 2 or subsection 4 relating to the person whose affairs are being investigated and to the subject-matter of the investigation for the purpose of making copies of such books, papers or documents, but such copying shall be carried out with reasonable dispatch and the books, papers or documents in question shall be promptly thereafter returned to the person whose affairs are being investigated. Removal of books, etc.

(6) Any copy made as provided in subsection 5 and certified to be a true copy by the person making the investigation is admissible in evidence in any action, proceeding or prosecution as *prima facie* proof of the original book, paper or document and its contents. Admissibility of copies

Appointment
of experts

(7) The Board may appoint any expert to examine books, papers, documents or things examined under clause *a* of subsection 2 or under subsection 4.

Inspections

23. Any person designated by the Board in writing may at any reasonable time enter upon any premises in respect of which a licence or permit is issued to make an inspection for the purpose of ensuring that the provisions of this Act and the regulations and the terms and conditions of the licence or permit are being complied with, and no person shall obstruct the person inspecting or withhold or destroy, conceal or refuse to furnish any information or thing required by the person inspecting for the purposes of the inspection.

Special
audit

24.—(1) The Board may at any time authorize and direct a representative of the Board appointed for that purpose to enter upon any premises where the books, accounts or records of or pertaining to any licensed manufacturer are kept or may be, and to inspect, study, audit, take extracts from such books, accounts or other records, and may, upon giving a receipt therefor, remove any such material that relates to the purpose of the inspection for the purpose of making a copy thereof, provided that such copying is carried out with reasonable dispatch and the material in question is promptly thereafter returned to the person being inspected, and no person shall obstruct the person inspecting or withhold or destroy, conceal or refuse to furnish any information or thing required by the person inspecting for the purposes of the inspection.

Admissibility
in evidence

(2) Any copy made as provided in subsection 1 and purporting to be certified by an inspector is admissible in evidence in any action, proceeding or prosecution as *prima facie* proof of the original.

Matters
confidential

25.—(1) Every person employed in the administration of this Act, including any person making an inquiry, inspection or an investigation under this Act, shall preserve secrecy in respect of all matters that come to his knowledge in the course of his duties, employment, inquiry, inspection or investigation and shall not communicate any such matters to any other person except,

- (a) as may be required in connection with the administration of this Act and the regulations or any proceedings under this Act; or
- (b) to his counsel; or
- (c) with the consent of the person to whom the information relates.

(2) No person to whom subsection 1 applies shall be required to give testimony in any civil suit or proceeding with regard to information obtained by him in the course of his duties, employment, inquiry, inspection or investigation except in a proceeding under this Act. Testimony in civil suit

26. Subject to sections 27 and 28 and the regulations, no licence shall be issued or government store established of a class for the sale of liquor in a municipality, Prohibited areas

- (a) in which the sale of liquor or the sale of liquor under that class of licence or store was prohibited under the law as it existed immediately before this Act comes into force; or
- (b) although the sale of liquor is not prohibited by law, no licence has been issued or government store established since the 16th day of September, 1916.

27.—(1) The council of a municipality may submit one or more of the questions prescribed by the regulations respecting the authorization for the sale of liquor in the municipality to a vote of the persons appearing by the last revised list of the municipality and qualified to vote at elections of the Assembly and the council shall submit to the said vote such questions as are requested by petition signed by at least 25 per cent of the persons entitled to vote on the submission. Submission by council to vote

(2) Where 60 per cent of the electors voting on a question, required to be submitted by virtue of clause *a* of section 26, vote in the affirmative, it is lawful to establish government stores, or issue the classes of licences in the municipality accordingly. Affirmative vote

(3) Where 40 per cent of the electors voting on a question required to be submitted by virtue of clause *b* of section 26 vote in the affirmative, it is lawful to establish government stores or issue the classes of licences in the municipality accordingly. Idem

28.—(1) The council of a municipality in which a government store is established or liquor is authorized to be sold under a licence may, and on petition as provided in section 27 shall, submit to the electors such questions respecting the closing of the store or premises as are prescribed by the regulations. Local option to cease sale

(2) Where 60 per cent of the electors voting on the question or questions vote in the negative, from and after the 31st day of March in the following year, any government store established in the municipality shall be closed, or licences Where negative vote polled

of any class for premises in the municipality shall be discontinued, as the case may be, in accordance with the question or questions submitted and voted upon.

Questions
not to be
submitted
again for
three years

29. Where a question is submitted in a municipality under section 27 or 28, neither that question nor any other question shall be submitted in the municipality until after the expiration of a period of three years from the date of such submission.

Appoint-
ment of
managers
for vote

30.—(1) At least five weeks before the taking of a vote upon any question under section 27 or 28, the electors interested in obtaining an affirmative answer and a negative answer respectively to the question or questions may notify the returning officer in writing, signed by at least twenty-five electors, that they have appointed a manager for their side of the question or questions and the manager may appoint agents at the polling places and generally has all the powers and shall perform all the duties and is subject to the like provisions as far as practicable as a candidate at an election to the Assembly, and in case more than one person is named as manager, the first person named on either side shall be manager.

Notice of
filing of
petition

(2) When a petition has been filed with the clerk of the municipality pursuant to section 27 or 28, the clerk shall give notice in writing of the filing to each of the managers, and the managers are, for a period of four weeks from the date of such notice, entitled to examine and inspect the petition.

Date of
polling
1972, c. 95

31. The day fixed for taking the vote on any question or questions shall be the day upon which under *The Municipal Elections Act, 1972*, or any by-law passed under that Act, a poll would be held at the election of members of the council of the municipality, unless the council with the approval of the Board fixes some other day and notifies the clerk of the municipality to that effect, but a poll shall not be held on any such question or questions until after the expiration of two months from the passing of a by-law for submitting the question or questions where the council submits the question or questions without a petition, nor until after the expiration of two months from the filing of the petition, as the case may be.

Who may
vote

32.—(1) The persons qualified to vote upon a question or questions are such persons as are named upon the polling list and would be qualified in other respects to vote at an election to the Assembly held on the day fixed for taking the poll upon the question or questions.

(2) Except as otherwise provided by this Act, the provisions of *The Election Act* respecting,

Application
of general law
R.S.O. 1970,
c. 142

- (a) the preparation and revision of the lists;
- (b) the time and manner of holding the poll;
- (c) the holding of advance polls;
- (d) the forms to be used and the oaths to be administered;
- (e) the powers and duties of returning officers, deputy returning officers and poll clerks,

and all the provisions relating to corrupt practices, illegal acts, offences and penalties and their prosecutions apply to the taking of a vote under this Act.

(3) Subject to the approval of the Lieutenant Governor in Council, the Chief Election Officer shall give such directions and make such regulations and prepare such forms as appear to him to be necessary in carrying out sections 27 to 34 and for the guidance of returning officers and other officers and persons employed in the taking of the vote, and may modify or alter any of the provisions of *The Election Act* when compliance therewith appears to be inconvenient, impracticable or unnecessary and may make due provision for circumstances that may arise and that are not provided for or contemplated by sections 27 to 34.

Directions
as to taking
vote

R.S.O. 1970,
c. 142

(4) The forms to be used at the taking of the vote upon a question or questions shall be the same as nearly as may be as the forms used at an election to the Assembly, but such forms may be modified and altered to such extent as is necessary.

Forms

(5) The voters' lists shall be revised as provided in *The Election Act* with respect to the revision of the lists at an election to the Assembly, and polling lists shall be prepared as provided by *The Election Act*.

Revision
of lists

(6) It is not necessary for the polling lists for use at the taking of a vote to be printed, nor is it necessary to prepare more copies than are required to provide one copy of the list for each polling place, one copy for the returning officer and two copies for persons representing those supporting the affirmative and negative respectively.

Polling
lists

(7) The treasurer of the municipality shall pay returning officers and other officers and servants such fees for services

Fees and
expenses

performed under sections 27 to 34, and such expenses incurred in carrying out such sections, as may be fixed by the regulations.

Returning officer

(8) The returning officer upon the taking of a vote shall be the clerk of the municipality, or, in case of his inability to act or of a vacancy in the office, some person to be appointed by by-law of the municipal council.

Return to Chief Election Officer

(9) The returning officer shall make his return to the Chief Election Officer showing the number of votes polled for the affirmative and negative on the question or questions submitted and, upon the receipt of such return, the Chief Election Officer shall make his return to the Lieutenant Governor in Council and give notice thereof in *The Ontario Gazette* showing the total number of votes polled in the municipality for the affirmative and negative upon the question or questions.

Where validity of vote questioned

1972, c. 95

R.S.O. 1970, c. 142

33.—(1) Notwithstanding anything in this or any other Act, where the validity of a vote on any question or questions submitted under this Act is questioned, the provisions of *The Municipal Elections Act, 1972* relating to proceedings to declare a seat vacant, apply *mutatis mutandis*, except that no vote under this Act shall be set aside or declared invalid for any reason set out in section 92 of *The Election Act*, and any notice of motion required under *The Municipal Elections Act, 1972* shall be served on such person as the judge or master, as defined in that Act, may direct.

Recounts

(2) Notwithstanding anything in this or any other Act, where a recount of a vote on any question or questions submitted under this Act is requested, sections 81 to 86 of *The Municipal Elections Act, 1972* apply *mutatis mutandis*.

Amalgamations, annexations not to affect status quo under Act

34.—(1) No amalgamation of a municipality with another municipality and no annexation of the whole or a part of a municipality to another municipality affects the operation of this Act at the time of the amalgamation or annexation in the municipality amalgamated or municipality or part annexed or elsewhere until such operation is affected pursuant to a vote under this Act in the municipality amalgamated or municipality or part annexed, as the case may be.

Who entitled to vote

(2) The persons qualified to vote upon any question or questions or to sign a petition pursuant to section 27 or 28 are the persons who are resident in the municipality amalgamated or municipality or part annexed, as the case may be, and who are qualified to be entered on the voters list and to vote at elections to the Assembly.

Interdiction orders

35.—(1) Where it is made to appear to the satisfaction of the Board that a person, resident or sojourning in Ontario,

by excessive drinking of liquor, misspends, wastes or lessens his estate, or injures his health, or interrupts the peace and happiness of his family, the Board may make an order of interdiction prohibiting the sale of liquor to him until further ordered.

(2) Sections 12, 13 and 15 apply in respect of the proposal to make and the making of the interdiction order in the same manner as to a proposal to revoke and the revocation of a licence. Hearings

(3) Every interdicted person keeping or having in his possession or under his control or consuming any liquor is guilty of an offence, and the judge making the conviction may in and by the conviction declare the liquor and all packages in which the liquor is contained forfeited to Her Majesty in right of Ontario. Disregard of order

(4) Upon an order of interdiction being made, the interdicted person shall deliver forthwith to the Board all liquor in his possession or under his control to be kept for him by the Board until the order of interdiction is revoked or set aside, or, at the option of the Board, such liquor may be purchased from him at a price to be fixed by the Board. Delivery of liquor

(5) The Board shall notify all managers of government stores, and such other persons as are prescribed by the regulations of the order of interdiction. Notice of order

(6) No person shall knowingly procure for, sell or give any liquor to an interdicted person, nor directly or indirectly assist in procuring or supplying any liquor to an interdicted person. Supply of liquor to interdicted person

(7) No interdicted person shall enter upon the premises of a government store. Interdicted person not to enter government store

36. Upon an application to the Board by a person in respect of whom an order of interdiction has been made, and upon it being made to appear to the satisfaction of the Board that the circumstances of the case did not warrant the making of the order of interdiction or upon proof that the interdicted person has refrained from drunkenness for at least twelve months immediately preceding the application, the Board may by order set aside the order of interdiction, and the interdicted person may be restored to all his rights under this Act and the regulations, and the Board shall accordingly forthwith notify all persons notified of the original order. Setting aside of interdiction order

37.—(1) In this section,

Interpretation

(a) "detoxification centre" means a public hospital designated by the regulations;

(b) "municipality" means a municipality responsible for maintaining a police force.

Taking to
detoxifica-
tion centre
in lieu
of charge

(2) Where a police officer finds a person in a public place apparently in contravention of subsection 3 of section 46, he may take such person into custody and, in lieu of laying an information in respect of the contravention, may escort the person to a detoxification centre.

Protection
from
liability

(3) No action or other proceedings for damages shall be instituted against any physician or any hospital or officer or employee thereof on the grounds only that he examines or treats without consent a person in a detoxification centre under subsection 2 who is brought to the centre by a constable or other police officer.

Detention
for
reclamation

38. Where it appears that a person in contravention of subsection 3 of section 46 may benefit therefrom, the judge may order the person to be detained for a period of ninety days or such lesser period as he thinks advisable in an institution for the reclamation of alcoholics that is designated for the purpose by the regulations, but, if at any time during this period the superintendent of the institution is of the opinion that further detention therein will not benefit him, the superintendent may release him.

Registration
of manu-
facturers'
agents

39.—(1) No person shall, directly or indirectly, hold himself out or act as agent or representative of a manufacturer in respect of the sale of liquor or canvass for, receive, take or solicit an order for the sale of liquor by a manufacturer or hold himself out or act as an agent or intermediary for the purpose unless he is registered with the Board as an agent or representative of such manufacturer.

Grounds
for refusal

(2) An applicant for registration is entitled to be registered except where the past conduct of the applicant affords reasonable grounds for belief that he will not carry on business in accordance with the law and with integrity and honesty.

Continuation
of existing
registrations

(3) Every person registered under section 78 of *The Liquor Control Act*, being chapter 249 of the Revised Statutes of Ontario, 1970 immediately before this section comes into force continues to be registered under this Act, subject to the provisions of this Act and the regulations.

Procedures

(4) The provisions of this Act applying to the issuance, refusal, suspension or revocation of a licence apply, *mutatis mutandis*, to the granting, refusal, suspension or revocation of a registration.

Regulations

40. The Lieutenant Governor in Council may make regulations,

- (a) prescribing classes of licences and permits and the terms and conditions to which each class is subject;
- (b) providing for issuance of licences and for renewals and transfer thereof;
- (c) establishing licensing districts and prescribing the maximum number of licences for the sale of liquor in each licensing district or any part thereof;
- (d) prescribing classes of premises and confining the issuance of any specified class or classes of licences to any specified class or classes of premises;
- (e) governing and providing for the issuance of permits for special occasions and prescribing the special occasions for which permits may be issued;
- (f) providing for the registration of agents and representatives of manufacturers;
- (g) requiring the payment of fees in respect of applications for and the issuance, renewal or transfer of licences, permits and registrations;
- (h) prescribing classes of licences or permits that may be issued in respect of premises in a municipality notwithstanding section 26;
- (i) requiring the holders of licences and permits to provide the Board with such information and returns respecting the sale of liquor and the premises, methods and practices connected therewith as is prescribed and requiring any information provided to be verified by oath;
- (j) controlling the advertising of liquor or its availability for sale and requiring that the form of advertisement or public notice be subject to the approval of the Board;
- (k) exempting uses of alcohol from the application of section 49;
- (l) prescribing the questions for the purpose of voting on questions under sections 27 and 28;
- (m) prescribing the form of ballots to be used for voting upon a question submitted in a municipality;
- (n) prescribing standards for premises or the part thereof used in connection with the sale of liquor by the holders of licences and permits and the

accommodation, equipment and facilities therein and prescribing or prohibiting methods and practices in connection with the serving of liquor;

- (o) prescribing the circumstances under which the manufacturer of liquor may give by gift any liquor;
- (p) prescribing the minimum alcoholic content of wine and beer for the purposes of clauses *b* and *p* of section 1;
- (q) prescribing classes of premises in which the sale of liquor is authorized on which a person under the age of eighteen years may enter;
- (r) designating public hospitals as detoxification centres;
- (s) designating institutions for the reclamation of alcoholics detained therein under section 38 and governing the transfer and admission of persons to and detention of persons in such institutions and providing for the government and operation of such institutions;
- (t) prescribing rules for proceedings before the Board or the Tribunal;
- (u) prescribing the form and content of the application for and of the card for proof of age, requiring the payment of a fee for its issuance and prescribing the amount thereof;
- (v) exempting any person, product or premises or any class thereof from any provision of this Act or the regulations;
- (w) prescribing any matter that by this Act is required or permitted to be or referred to as prescribed by the regulations.

Intoxicating
liquor for
purposes of
R.S.C. 1970,
c. I-4

41. Liquor shall be deemed to be an intoxicating liquor for the purposes of the *Importation of Intoxicating Liquors Act* (Canada).

Unlawful
purchase

42. No person shall purchase liquor except from a government store or from a person authorized by licence or permit to sell.

Unlawful
gift by manu-
facturer

43. No manufacturer of liquor shall in Ontario, by himself, his clerk, servant or agent, give any liquor to any

person, except as is permitted by and in accordance with the regulations.

44. No person shall sell or supply liquor or permit liquor to be sold or supplied to any person in or apparently in an intoxicated condition. Sale to persons under influence

45.—(1) No person shall knowingly sell or supply liquor to a person under the age of eighteen years. Minors

(2) No liquor shall be sold or supplied to a person who is apparently under the age of eighteen years, and, in any prosecution for a contravention of this subsection, the justice shall determine from the appearance of such person and other relevant circumstances whether he is apparently under the age of eighteen years. Idem

(3) No person under the age of eighteen years shall have, consume, attempt to purchase, purchase or otherwise obtain liquor. Minor prohibited from purchasing liquor

(4) No person under the age of eighteen years shall enter or remain on premises in which the sale of liquor is authorized except those classes of premises that are prescribed by the regulations. Idem

(5) This section does not apply to the supplying of liquor to a person under the age of eighteen years by the parent or guardian of such person in a residence as defined in section 46 or to the consumption of liquor therein by such person. Application of section

(6) A person who sells or supplies liquor to another person shall be deemed not to be in contravention of subsection 1 or 2 if, before he sells or supplies the liquor, a card in the form prescribed by the regulations is produced to him by the person to whom he sells or supplies the liquor, which purports to be issued by the Board to the person producing it and if there is no apparent inconsistency on the face of the card or between the card and the person producing it. Card as proof of age

46.—(1) In this section, Interpretation

(a) "public place" means a place to which the general public is invited or permitted access, whether or not for a fee;

(b) "residence" means a place that is actually occupied and used as a dwelling, whether or not in common

with other persons, including all premises used in conjunction therewith that is not a public place, and where the place occupied and used as a dwelling is a tent, includes the land immediately adjacent and used in conjunction therewith.

Unlawful
consumption

(2) No person shall consume liquor in any place other than a premises in respect of which a licence or permit is issued or a residence.

Intoxication
in public
place

(3) No person shall be in an intoxicated condition in a public place or in any part of a residence that is used in common by persons occupying more than one dwelling therein.

Arrest
without
warrant

(4) A police officer may arrest without warrant any person whom he finds contravening subsection 3 where to do so is necessary to protect that person or another from injury.

Power to
eject from
licensed
premises

47.—(1) The holder of a licence or permit issued in respect of premises shall ensure that any person whom he has reasonable grounds to believe,

(a) is unlawfully on the premises;

(b) is on the premises for an unlawful purpose; or

(c) is contravening the law on the premises,

does not remain on the premises and may request the person to leave the premises immediately and if the request is not forthwith complied with may remove him or cause him to be removed by the use of no more force than is necessary.

Order to
vacate
premises

(2) Where there are reasonable grounds to believe that a disturbance or breach of the peace is being caused on a licensed premises sufficient to constitute a threat to the public safety, a police officer may require that all persons vacate the premises and the holder of the licence or permit shall ensure, with the assistance of the peace officer, if necessary, that the premises are vacated.

Conveying
liquor in
vehicle
R.S.O. 1970.
c. 202

48.—(1) No person shall drive or have the care or control of a motor vehicle as defined in *The Highway Traffic Act* or motorized snow vehicle, whether it is in motion or not, while there is contained therein any liquor, except,

(a) liquor in a bottle or package that is unopened and the seal unbroken; or

(b) liquor in a bottle or package that is packed with personal effects in baggage that is fastened closed or that is not otherwise readily available to any person in the vehicle.

(2) A police officer may at any time, without a warrant, enter and search any vehicle or other conveyance in which he has reasonable grounds to believe that liquor is unlawfully kept or had, and search any person found in such vehicle or other conveyance.

Search of
vehicles

49. No person shall,

Unlawful
consumption
of alcohol

(a) drink alcohol in a form that is not a liquor; or

(b) supply alcohol in a form that is not a liquor to another when he knows or ought to know that the other intends it to be used as a drink.

50.—(1) No person shall advertise liquor or display public notice that liquor is available for sale except in accordance with the regulations.

Regulation of
advertising

(2) Where the Board believes on reasonable and probable grounds that any advertisement or public notice is in contravention of this Act or the regulations, the Board may order the immediate cessation of the use of such advertisement or notice, and the provisions of this Act applying to the imposition by the Board of a condition of the licence apply *mutatis mutandis* to the order, and the order of the Board shall take effect immediately, but the Tribunal may grant a stay until the Board's order becomes final.

Order of
cessation

51.—(1) Liquor kept for sale or offered for sale in contravention of section 4 and liquor purchased in contravention of section 42 is forfeited to the Board.

Forfeiture
of liquor

(2) Where liquor to which subsection 1 applies is seized by a police officer, he shall forthwith make or cause to be made a report of the particulars of the seizure to the Board and shall deliver the liquor or cause the liquor to be delivered to the Board as soon as the due process of the law permits.

Report and
delivery

52.—(1) Any person who is over the age of eighteen years and not an interdicted person may apply to the Board for a card certifying that such person has attained the age of eighteen years.

Card
certifying
age

(2) A card issued by the Board shall contain a photographic likeness of the applicant and otherwise be in the form prescribed by the regulations.

Form of
card

(3) No person shall supply false information or a false photographic likeness in an application made under subsection 1, or alter in any way, any card issued by the Board.

False
information

False
card

(4) No person shall present as evidence of his age any card purporting to be issued by the Board other than a card issued to him by the Board.

Civil
liability

53. Where any person or his servant or agent sells liquor to or for a person whose condition is such that the consumption of liquor would apparently intoxicate him or increase his intoxication so that he would be in danger of causing injury to his person or injury or damage to the person or property of others, if the person to or for whom the liquor is sold while so intoxicated,

R.S.O. 1970,
c. 164

- (a) commits suicide or meets death by accident, an action under *The Fatal Accidents Act* lies against the person who or whose servant or agent sold the liquor; or
- (b) causes injury or damage to the person or property of another person, such other person is entitled to recover an amount to compensate him for his injury or damage from the person who or whose servant or agent sold the liquor.

Arrest
without
warrant

54. Where a police officer finds a person contravening this Act and such person refuses to give his name and address or there are reasonable grounds to believe that the name or address given is false, the police officer may arrest such person without warrant.

Offences

55. —(1) Every person who,

- (a) knowingly furnishes false information in any application under this Act or in any statement or return required to be furnished under this Act or the regulations;
- (b) knowingly fails to comply with an order of the Board under subsection 2 of section 50;
- (c) contravenes any provision of this Act or the regulations,

and every director or officer of a corporation who knowingly concurs in such furnishing, failure or contravention is guilty of an offence and on summary conviction is liable to a fine of not more than \$2,000 or to imprisonment for a term of not more than one year, or to both.

Corpora-
tions

(2) Where a corporation is convicted of an offence under subsection 1, the maximum penalty that may be imposed upon the corporation is \$25,000 and not as provided therein.

(3) No proceeding to prosecute under clause *a* or *b* of sub-section 1 shall be instituted except with the consent of the Minister. Consent of Minister

(4) No proceeding to prosecute under clause *a* of sub-section 1 shall be commenced more than one year after the facts upon which the proceeding is based first came to the knowledge of the Board. Limitation

(5) No proceeding to prosecute under clause *b* or *c* of sub-section 1 shall be commenced more than two years after the time when the subject-matter of the proceeding arose. Idem

56.—(1) Where liquor is found by a police officer under circumstances where the liquor constitutes evidence necessary to prove a contravention of this Act, the police officer may seize and take away the liquor and packages in which it is kept. Seizure of liquor

(2) A provincial court judge may, upon the application of any person made within thirty days of a seizure under subsection 1, order that the things seized be restored forthwith to the applicant where the judge is satisfied that, Order of restoration

(a) the applicant is entitled to possession of the things seized; and

(b) the things seized are not required as evidence in any proceedings in respect of an offence under this Act,

and where the judge is satisfied that the applicant is entitled to possession of the things seized but is not satisfied as to the matter mentioned in clause *b*, he shall order that the things seized be restored to the applicant,

(c) upon the expiration of three months from the date of the seizure, if no proceedings in respect of an offence under this Act have been commenced; or

(d) upon the final conclusion of any such proceedings.

(3) Where no application has been made for the return of any thing seized under subsection 1 or an application has been made but upon the hearing thereof no order of restoration has been made, the thing seized is forfeited to the Board. Forfeiture

(4) Where a person is convicted of an offence under this Act, any thing seized under subsection 1 by means of which the offence was committed is forfeited to the Board. Idem

Certificate
as evidence

57. A statement as to,

- (a) the licensing or non-licensing of any person;
- (b) the filing or non-filing of any document or material required or permitted to be filed with the Board;
- (c) the time when the facts upon which proceedings are based first came to the knowledge of the Board; or
- (d) any other matter pertaining to such licence, non-licensing, filing or non-filing,

purporting to be certified by the chairman of the Board is, without proof of the office or signature of the chairman, receivable in evidence as *prima facie* proof of the facts stated therein for all purposes in any action, proceeding or prosecution.

Analysis

58. In any prosecution under this Act or the regulations, upon production of a certificate or report signed or purporting to be signed by a federal or provincial analyst as to the analysis or ingredients of any liquor or other fluid or any preparation, compound or substance, the certificate or report is conclusive evidence of the facts stated in the certificate or report and of the authority of the person giving or making it without any proof of appointment or signature.

Exception
for drugs
and
medicines
1974, c. 47

59. Nothing in this Act prevents the sale,

- (a) of a drug dispensed as a medicine by a person authorized to do so under *The Health Disciplines Act, 1974*;
- (b) of a drug compounded, dispensed or supplied in and by a hospital or a health or custodial institution approved or licensed under any general or special Act under the authority of a prescriber as defined in Part VI of *The Health Disciplines Act, 1974* for a person under health care provided by such hospital or health or custodial institution;
- (c) subject to section 49, of a medicine registered under the *Proprietary or Patent Medicine Act* (Canada); or
- (d) of a drug to a person authorized under *The Health Disciplines Act, 1974* to dispense, prescribe or administer drugs,

R.S.C. 1970,
P-25

or the purchase of such drug or medicine sold in accordance with this section.

60. The following are repealed:

Repeals

1. *The Liquor Licence Act*, being chapter 250 of the Revised Statutes of Ontario, 1970.
2. *The Liquor Licence Amendment Act, 1971*, being chapter 35.
3. *The Liquor Licence Amendment Act, 1973*, being chapter 68.
4. Paragraph 19 of the Schedule to *The Age of Majority and Accountability Act, 1971*, being chapter 98.

61. This Act comes into force on a day to be named by proclamation of the Lieutenant Governor. Commence-
ment

62. This Act may be cited as *The Liquor Licence Act, 1975*. Short title

1st Reading

April 15th, 1975

2nd Reading

June 3rd, 1975

3rd Reading

June 24th, 1975

THE HON. S. B. HANDLEMAN
Minister of Consumer and
Commercial Relations

5TH SESSION, 29TH LEGISLATURE, ONTARIO
24 ELIZABETH II, 1975

An Act to amend The Mental Health Act

MR. ROY

THE ATTORNEY GENERAL

EXPLANATORY NOTE

The Bill requires that where a person charged with or convicted of an offence is ordered to attend a psychiatric facility for examination, he be examined by at least one psychiatrist.

An Act to amend The Mental Health Act

HER MAJESTY, by and with the advice and consent of the Legislative Assembly of the Province of Ontario, enacts as follows:

1. Subsection 1 of section 14 of *The Mental Health Act*, being ^{s. 14 (1), amended} chapter 269 of the Revised Statutes of Ontario, 1970, is amended by adding at the end thereof "and the person shall be examined by at least one psychiatrist", so that the subsection shall read as follows:

(1) Where a judge has reason to believe that a person who appears before him charged with or convicted of an offence suffers from mental disorder, the judge may order the person to attend a psychiatric facility for examination, and the person shall be examined by at least one psychiatrist.
2. This Act comes into force on the day it receives Royal Assent. <sup>Commence-
ment</sup>
3. This Act may be cited as *The Mental Health Amendment Act*, ^{Short title} 1975.

An Act to amend
The Mental Health Act

1st Reading

April 15th, 1975

2nd Reading

3rd Reading

MR. ROY

(Private Member's Bill)

5TH SESSION, 29TH LEGISLATURE, ONTARIO
24 ELIZABETH II, 1975

An Act to amend The Public Hospitals Act

MR. ROY

EXPLANATORY NOTE

The Bill provides for appeal directly to the Court of Appeal and requires that a decision of the Appeal Board remains in force and effect until the court renders its decision.

BILL 47

1975

An Act to amend The Public Hospitals Act

HER MAJESTY, by and with the advice and consent of the Legislative Assembly of the Province of Ontario, enacts as follows:

1. Subsection 1 of section 50 of *The Public Hospitals Act*, being s. 50 (1), chapter 378 of the Revised Statutes of Ontario, 1970, as re-enacted enacted by the Statutes of Ontario, 1972, chapter 90, section 23, is repealed and the following substituted therefor:

(1) Any party to proceedings before the Appeal Board may appeal from its decision to the Court of Appeal in accordance with the rules of court. Appeal from decision of Appeal Board

(1a) Where any party appeals from a decision of the Appeal Board, the decision of the Appeal Board shall remain in force and effect until the decision of the court is rendered. Decision of Appeal Board to remain in force

2. This Act comes into force on the day it receives Royal Assent. Commencement
3. This Act may be cited as *The Public Hospitals Amendment Act, 1975*. Short title

An Act to amend
The Public Hospitals Act

1st Reading

April 15th, 1975

2nd Reading

3rd Reading

Mr. Roy

(Private Member's Bill)

5TH SESSION, 29TH LEGISLATURE, ONTARIO
24 ELIZABETH II, 1975

An Act to establish The Ontario Bill of Rights

MR. ROY

EXPLANATORY NOTE

This Bill will provide for an Ontario Bill of Rights. The Canadian Bill of Rights enacted by the Parliament of Canada in 1960 provides for the protection of certain human rights and fundamental freedoms but its effectiveness is limited by the fact that it operates only within the fields of the federal Parliament's constitutional authority. The Ontario Bill of Rights is intended to provide for the protection of those same human rights and fundamental freedoms so that, in Ontario, those rights and freedoms will have protection in both provincial and federal fields of legislative jurisdiction. The result will be to have those rights and freedoms protected in Ontario under a single legislative shield consisting of the Canadian Bill of Rights and The Ontario Bill of Rights.

The effect of the Bill will be to have the Legislature, out of its respect for those rights and freedoms, limit its powers to enact statutes and regulations.

BILL 48 1975

**An Act to establish
The Ontario Bill of Rights**

WHEREAS the free and democratic society existing in Ontario is founded upon principles, fostered by tradition, that honour and respect human rights and fundamental freedoms and the dignity and worth of the human person; and whereas the Parliament of Canada, being desirous of enshrining certain principles and the human rights and fundamental freedoms derived from them, enacted the Canadian Bill of Rights in order to ensure the protection of those rights and freedoms in Canada in matters coming within its legislative authority; and whereas the Legislature of Ontario, affirming those principles and recognizing the need to ensure the protection of those rights and freedoms in Ontario in matters coming within its legislative authority, desires to enact The Ontario Bill of Rights.

Therefore, Her Majesty, by and with the advice and consent of the Legislative Assembly of the Province of Ontario, enacts as follows:

1. It is hereby recognized and declared that in Ontario there exist, without discrimination by reason of race, national origin, colour, religion or sex, the following human rights and fundamental freedoms, namely,

Declaration
of rights and
fundamental
freedoms

- (a) the right of the individual to liberty, security of the person and enjoyment of property, and the right not to be deprived thereof except by due process of law;
- (b) the right of the individual to equality before the law and the protection of the law;
- (c) freedom of religion;
- (d) freedom of speech;
- (e) freedom of assembly and association; and

(f) freedom of the press.

Construction
and applica-
tion of
statutes and
regulations

2. Every statute and regulation of Ontario shall, unless it is expressly declared by an Act of the Legislature that it operates notwithstanding this Act, be so construed and applied as not to abrogate, abridge or infringe or to authorize the abrogation, abridgment or infringement of any of the rights or freedoms herein recognized and declared.

Rights
preserved

3.—(1) Nothing in this Act shall be construed to abrogate or abridge any human right or fundamental freedom not enumerated herein that may have existed in Ontario at the commencement of this Act.

Jurisdiction
of
Legislature

(2) The provisions of this Act shall be construed as extending only to matters coming within the legislative authority of the Legislature of Ontario.

Notice to
Attorney
General

4.—(1) Where in any action or other proceeding a question arises as to whether any law of Ontario abrogates, abridges or infringes, or authorizes the abrogation, abridgment or infringement, of any of the rights and freedoms herein recognized and declared, no adjudication on that question is valid unless notice has been given to the Attorney General.

Attorney
General
may appear

(2) Where the Attorney General has notice under subsection 1, he may, in person or by counsel, appear and participate in that action or proceeding on such terms and conditions as the court, person or body conducting the proceeding may consider just.

Law of
Ontario
defined

5. In this Act, "law of Ontario" means,

- (a) any Act of the Legislature of Ontario enacted before, on or after the commencement of this Act; and
- (b) any order, rule or regulation made or approved by the Lieutenant Governor in Council or by a Minister of the Crown before, on or after the commencement of this Act.

Commence-
ment

6. This Act comes into force on the day it receives Royal Assent.

Short title

7. This Act may be cited as *The Ontario Bill of Rights, 1975*.

An Act to establish
The Ontario Bill of Rights

1st Reading

April 15th, 1975

2nd Reading

3rd Reading

MR. ROY

(Private Member's Bill)

5TH SESSION, 29TH LEGISLATURE, ONTARIO
24 ELIZABETH II, 1975

An Act to amend The Landlord and Tenant Act

MR. BRAITHWAITE

EXPLANATORY NOTES

The amendment provides for mandatory Landlord and Tenant Review Boards in municipalities with populations of over 150,000 persons.

These Boards would have the power to determine the amount of rents and to order tenants removed from premises for non-payment of rent or wilful damage to premises.

An Act to amend The Landlord and Tenant Act

HER MAJESTY, by and with the advice and consent of the Legislative Assembly of the Province of Ontario, enacts as follows:

1. Section 110 of *The Landlord and Tenant Act*, being chapter 236 of the Revised Statutes of Ontario, 1970, is repealed and the following substituted therefor: s. 110,
re-enacted

110.—(1) In this section,

Interpre-
tation

- (a) “Board” means a Landlord and Tenant Review Board established under this Act;
- (b) “municipality” means a local municipality and includes a metropolitan municipality and a regional municipality but does not include an area municipality thereof.

(2) The council of every municipality, where the population of the municipality is greater than 150,000 persons, shall by by-law establish a Landlord and Tenant Review Board, subject to the approval of the Lieutenant Governor in Council. By-laws to
establish
Landlord and
Tenant
Review
Board

(3) The council of every municipality referred to in subsection 2 shall appoint five members to the Board, one of whom shall be chairman and one of whom shall be vice-chairman, except that no elected official of the municipality may be a member of the Board. Composition
of Board

(4) At least three members of a Board, one of whom shall be the chairman or vice-chairman, constitute a quorum. Quorum

(5) The chairman shall have general supervision and direction over the conduct of the affairs of a Board. Duties of
chairman

(6) The objects of a Board are and it has the power, Objects and
powers

- (a) to advise landlords and tenants in tenancy matters;
- (b) to receive complaints and seek to mediate disputes between landlords and tenants;
- (c) to disseminate information for the purpose of educating and advising landlords and tenants concerning rental practices, rights and remedies;
- (d) to receive and investigate complaints of conduct in contravention of legislation governing tenancies;
- (e) to conduct hearings concerning rent increases and to order landlords to decrease or freeze rents;
- (f) to conduct hearings concerning vandalism and damage to premises by tenants and to order a tenant to be removed from a premises where wilful damage has occurred;
- (g) to conduct hearings concerning rent arrears by a tenant where the arrears are for two months or more, and to order a tenant to be removed from a premises where the arrears in rent are substantial.

Time and
place of
hearings

(7) Every Board appointed under subsection 2 shall meet at least twelve times a year at such places to be determined by the Board.

Application
by tenant

(8) Where a tenant is in possession of residential premises and his continuing in possession is subject to the payment of an increased rent, the tenant may apply to a Board for a review of the amount of the rent.

Application
by landlord

(9) A landlord may apply for a review and for an order to have a tenant evicted where the tenant is in arrears of rent for more than two months or where the tenant has inflicted wilful damage on the premises.

Parties

(10) The landlord, the tenant and any other person specified by the Board are parties to the hearing.

Notice of
hearing

(11) The Board shall fix a date for the hearing and shall serve notice of the hearing on the parties at least ten days before the day fixed.

Application
of 1971, c. 47

(12) Sections 6 to 23 of *The Statutory Powers Procedure Act, 1971* apply to a hearing under this section.

Rental and
eviction
orders

(13) A Board shall after a hearing determine,

- (a) the amount of rent that is reasonable in all the circumstances and may order that the rental agreement be continued at the rental mentioned in the order; or
- (b) whether or not a tenant should be removed from a premises because of non-payment of rent or wilful damage to the premises,

as the case may be.

(14) A landlord shall not terminate a rental agreement except for cause while an application to a Board under this section is pending. Termination of tenancy while application pending

(15) In the case of a weekly or monthly tenancy, the Board may order that the landlord shall not terminate the tenancy, except for cause, for a period named in the order, not exceeding one year. Termination of periodic tenancy after order

- 2. This Act comes into force on the day it receives Royal Assent. Commencement
- 3. This Act may be cited as *The Landlord and Tenant Amendment Act, 1975*. Short title

An Act to amend
The Landlord and Tenant Act

1st Reading

April 15th, 1975

2nd Reading

3rd Reading

MR. BRAITHWAITE

(Private Member's Bill)

5TH SESSION, 29TH LEGISLATURE, ONTARIO
24 ELIZABETH II, 1975

An Act to amend The Public Health Act

MR. BRAITHWAITE

THE HOUSE OF REPRESENTATIVES
OF THE STATE OF TEXAS

AN ACT TO AMEND THE FOOD AND DRUG ACT

EXPLANATORY NOTE

The purpose of the Bill is to provide for the marking of dates on perishable food packages which will clearly, without the use of a code or guide, indicate the date the food was packaged together with the expiry date.

An Act to amend The Public Health Act

HER MAJESTY, by and with the advice and consent of the Legislative Assembly of the Province of Ontario, enacts as follows:

1. Section 6 of *The Public Health Act*, being chapter 377 of the Revised Statutes of Ontario, 1970, as amended by the Statutes of Ontario, 1972, chapter 80, section 1 and 1974, chapter 61, section 3, is further amended by adding thereto the following paragraph:
 45. prescribing the manner in which packages and containers of perishable foods shall be marked so as to clearly indicate without the use of a code or guide the date that the food was packaged and the expiry date.
2. This Act comes into force on the day it receives Royal Assent.
3. This Act may be cited as *The Public Health Amendment Act*.

s. 6,
amended

dates on
perishable
foods

Commence-
ment

Short title

An Act to amend
The Public Health Act

1st Reading

April 15th, 1975

2nd Reading

3rd Reading

MR. BRAITHWAITE

(Private Member's Bill)

5TH SESSION, 29TH LEGISLATURE, ONTARIO
24 ELIZABETH II, 1975

An Act to amend The Athletics Control Act

MR. BRAITHWAITE

Bill 21

EXPLANATORY NOTE

The purpose of the Bill is to prohibit the practice whereby senior house leagues require individual leagues to submit personal information on members. The Bill would also prohibit the selling of the names of league members to companies who wish to compile mailing lists.

An Act to amend The Athletics Control Act

HER MAJESTY, by and with the advice and consent of the Legislative Assembly of the Province of Ontario, enacts as follows:

1. Subsection 1 of section 13 of *The Athletics Control Act*, ^{s. 13 (1), amended} being chapter 35 of the Revised Statutes of Ontario, 1970, is amended by adding thereto the following clauses:
 - (p) defining "house league" and "senior house league" for the purposes of this Act and the regulations;
 - (q) prohibiting senior house leagues from requiring personal information on individual members of house leagues to be submitted as a requirement of membership in the league;
 - (r) prohibiting the selling or dissemination of information concerning individual members of house leagues by senior house leagues.
2. This Act comes into force on the day it receives Royal Assent. <sup>Commence-
ment</sup>
3. This Act may be cited as *The Athletics Control Amendment Act*, 1975. ^{Short title}

An Act to amend
The Athletics Control Act

1st Reading

April 15th, 1975

2nd Reading

3rd Reading

MR. BRAITHWAITE

(Private Member's Bill)

5TH SESSION, 29TH LEGISLATURE, ONTARIO
24 ELIZABETH II, 1975

**An Act to amend The Environmental Protection
Act, 1971**

MR. BRAITHWAITE

TORONTO

PRINTED BY J. C. THATCHER, QUEEN'S PRINTER FOR ONTARIO

EXPLANATORY NOTE

The purpose of the Bill is to provide for noise control regulations on a province-wide basis rather than by by-laws passed by individual municipalities.

BILL 52

1975

An Act to amend The Environmental Protection Act, 1971

HER MAJESTY, by and with the advice and consent of the Legislative Assembly of the Province of Ontario, enacts as follows:

1. Section 95a of *The Environmental Protection Act, 1971*, ^{s. 95a, re-enacted} being chapter 86, as enacted by the Statutes of Ontario, 1974, chapter 125, section 3, is repealed and the following substituted therefor:

95a.—(1) The Lieutenant Governor in Council may make ^{Regulations} regulations,

- (a) regulating or prohibiting the emission of sounds or vibrations;
- (b) providing for the licensing of persons, equipment and premises, or any of them, with respect to the emission of sounds or vibrations;
- (c) prescribing maximum permissible levels of sounds or vibrations that may be emitted;
- (d) prescribing procedures for determining the levels of sounds or vibrations that are emitted,

and such regulations may make different provisions for different areas of the Province and may make provision for exempting any person, equipment or premises from any provision of the regulations for such period of time and subject to such terms and conditions as may be set out or provided for in the regulations.

(2) A regulation passed pursuant to subsection 1 may ^{Adoption of codes} adopt by reference, in whole or in part, any code, formula, standard or procedure, and may require compliance with any code, standard or procedure so adopted.

s. 96 (2),
re-enacted

- 2.** Subsection 2 of section 96 of the said Act, as enacted by the Statutes of Ontario, 1974, chapter 125, section 4, is repealed and the following substituted therefor:

Idem

(2) Subsection 1 does not apply in respect of section 95a and the enactment of section 95a or a regulation pursuant to section 95a does not affect the validity of an Act that is in force immediately before the coming into force of section 95a.

Commence-
ment

- 3.** This Act comes into force on the day it receives Royal Assent.

Short title

- 4.** This Act may be cited as *The Environmental Protection Amendment Act, 1975*.

An Act to amend
The Environmental Protection
Act, 1971

1st Reading

April 15th, 1975

2nd Reading

3rd Reading

MR. BRAITHWAITE

(Private Member's Bill)

5TH SESSION, 29TH LEGISLATURE, ONTARIO
24 ELIZABETH II, 1975

**An Act to establish the Ontario Waste Disposal
and Reclamation Commission**

MR. NEWMAN (Windsor-Walkerville)

EXPLANATORY NOTE

The Bill establishes the Ontario Waste Disposal and Reclamation Commission.

BILL 53

1975

An Act to establish the Ontario Waste Disposal and Reclamation Commission

HER MAJESTY, by and with the advice and consent of the Legislative Assembly of the Province of Ontario, enacts as follows:

1. In this Act,

**Interpre-
tation**

(a) "Commission" means the Ontario Waste Disposal and Reclamation Commission;

(b) "Minister" means the Minister of the Environment.

2.—(1) A Commission to be known as the "Ontario Waste Disposal and Reclamation Commission" is hereby established.

**Commission
established**

(2) The Commission shall be composed of not fewer than seven members appointed by the Lieutenant Governor in Council.

Composition

3. The Lieutenant Governor in Council may designate one of the members to be chairman of the Commission.

Chairman

4. Five members of the Commission constitute a quorum.

Quorum

5. The Lieutenant Governor in Council may fill any vacancy among the members of the Commission.

Vacancies

6.—(1) The objects of the Commission are and it has power,

**Objects
and powers**

(a) to provide solid waste disposal and reclamation services throughout the province, including incineration and landfill;

(b) to develop procedures and establish plants for the reclamation and recycling of paper, metal, glass and other materials;

- (c) to study methods of marketing reclaimed materials; and
- (d) to provide waste collection services in areas where it would be uneconomical for local authorities to do so.

Further powers

(2) Subject to the approval of the Lieutenant Governor in Council, for the furtherance of its objects, the Commission may enter into agreements with universities, corporations or persons for the experimentation in methods of evaluating and reducing noise.

By-laws

7. The Commission may make such by-laws as are considered expedient for its constitution and the administration of its affairs, and may do such other things as are considered necessary or advisable to carry out its objects.

Annual report

8. The Commission shall make a report annually to the Minister who shall submit the report to the Lieutenant Governor in Council and shall then lay the report before the Assembly if it is in session or, if not, at the next ensuing session.

Commencement

9. This Act comes into force on the day it receives Royal Assent.

Short title

10. This Act may be cited as *The Ontario Waste Disposal and Reclamation Commission Act, 1975*.

An Act to establish the Ontario Waste
Disposal and Reclamation Commission

1st Reading

April 15th, 1975

2nd Reading

3rd Reading

MR. NEWMAN (Windsor-Walkerville)

(Private Member's Bill)

5TH SESSION, 29TH LEGISLATURE, ONTARIO
24 ELIZABETH II, 1975

An Act to amend The Family Benefits Act

MR. MARTEL

EXPLANATORY NOTE

The purpose of the amendment is to remove any reference to the sex of the parent, thereby enabling either the mother or father of the child to be eligible for benefits.

An Act to amend The Family Benefits Act

HER MAJESTY, by and with the advice and consent of the Legislative Assembly of the Province of Ontario, enacts as follows:

- 1.—(1) Clause *d* of subsection 1 of section 7 of *The Family Benefits Act*, being chapter 157 of the Revised Statutes of Ontario, 1970, is repealed and the following substituted therefor: s. 7 (1) (d),
re-enacted

(d) who is a single parent with a dependent child and,

- (i) who is a widow or widower, or
- (ii) whose spouse has deserted the family for three months or more, or
- (iii) whose spouse is a patient in a sanatorium, hospital or similar institution, or
- (iv) whose spouse is imprisoned in a penal institution and at the date of the application has a term of imprisonment remaining to be served of six months or more, or
- (v) who is divorced from the parent of the dependent child and has not remarried, or
- (vi) a mother, whose dependent child was born out of wedlock, where the mother is sixteen years or more of age and her dependent child is three months or more of age; or

.

- (2) Clause *e* of subsection 1 of the said section 7, as re-enacted s. 7 (1) (e),
repealed by the Statutes of Ontario, 1971, chapter 92, section 4, is repealed.

Commence-
ment

2. This Act comes into force on the day it receives Royal Assent.

Short title

3. This Act may be cited as *The Family Benefits Amendment Act, 1975*.

An Act to amend
The Family Benefits Act

1st Reading

April 17th, 1975

2nd Reading

3rd Reading

MR. MARTEL

(Private Member's Bill)

5TH SESSION, 29TH LEGISLATURE, ONTARIO
24 ELIZABETH II, 1975

An Act to amend The Consumer Protection Act

MR. BRAITHWAITE

UNITED STATES DEPARTMENT OF AGRICULTURE
BUREAU OF AGRICULTURAL ECONOMICS

EXPLANATORY NOTE

The purpose of the Bill is to eliminate the practice prevalent in super-markets and large chain stores of repricing upward goods already on the shelves.

BILL 55

1975

An Act to amend The Consumer Protection Act

HER MAJESTY, by and with the advice and consent of the Legislative Assembly of the Province of Ontario, enacts as follows:

1. *The Consumer Protection Act*, being chapter 82 of the Revised Statutes of Ontario, 1970, is amended by adding thereto the following section:

46b. No seller shall sell or offer for sale an article, where the article has been marked by the seller to sell at a certain price, at a price higher than that already marked on the article or, where the article is packed, at a price higher than that already marked on the package.
2. This Act comes into force on the day it receives Royal Assent.
3. This Act may be cited as *The Consumer Protection Amendment Act, 1975*.

s. 46b,
enactedPrice
changing
prohibitedCommence-
ment

Short title

An Act to amend
The Consumer Protection Act

1st Reading

April 17th, 1975

2nd Reading

3rd Reading

MR. BRAITHWAITE

(Private Member's Bill)

5TH SESSION, 29TH LEGISLATURE, ONTARIO
24 ELIZABETH II, 1975

An Act to amend The Highway Traffic Act

MR. ROY

EXPLANATORY NOTE

The Bill provides for the compulsory wearing of seat belts while driving or travelling in a motor vehicle other than a motorcycle.

An Act to amend The Highway Traffic Act

HER MAJESTY, by and with the advice and consent of the Legislative Assembly of the Province of Ontario, enacts as follows:

1. *The Highway Traffic Act*, being chapter 202 of the Revised Statutes of Ontario, 1970, is amended by adding thereto the following section:

63a.—(1) Subject to subsection 3, no person, while driving or travelling upon a highway in a motor vehicle, shall occupy a seat in the motor vehicle in a seat position to which a seat belt has been fitted unless he is wearing the seat belt properly adjusted and securely fastened. s. 63a,
enacted
Seat belts
compulsory

(2) No person, while travelling upon a highway in a motor vehicle, shall occupy a seat in the motor vehicle in a seat position to which no seat belt has been fitted unless, Idem

(a) all seat positions for which seat belts are fitted are occupied; and

(b) he is seated in the rear compartment of the motor vehicle.

(3) This section does not apply to,

Exceptions

(a) a person driving or travelling upon a highway on a motorcycle;

(b) a person driving a motor vehicle in reverse;

(c) the holder of a certificate signed by a legally qualified medical practitioner certifying,

(i) that the person named in the certificate is, for the period stated in the certificate, unable for medical reasons to wear a seat belt, or

(ii) that the person named in the certificate is, because of his size, build or other physical characteristics, unable to drive or travel in a motor vehicle with safety while wearing a seat belt;

(d) a person who is engaged in work which requires him to alight from and return to a motor vehicle at frequent intervals and who, while engaged in such work, does not drive or travel in the motor vehicle at a speed exceeding 25 miles per hour; or

(e) a person under the age of eight years.

Commence-
ment

2. This Act comes into force on the day it receives Royal Assent.

Short title

3. This Act may be cited as *The Highway Traffic Amendment Act, 1975*.

An Act to amend
The Highway Traffic Act

1st Reading

April 17th, 1975

2nd Reading

3rd Reading

MR. ROY

(Private Member's Bill)

5TH SESSION, 29TH LEGISLATURE, ONTARIO
24 ELIZABETH II, 1975

An Act to amend The Highway Traffic Act

MR. ROY

EXPLANATORY NOTE

The purpose of the Bill is to lower the speed limit on Ontario Highways to 55 miles per hour.

BILL 57

1975

An Act to amend The Highway Traffic Act

HER MAJESTY, by and with the advice and consent of the Legislative Assembly of the Province of Ontario, enacts as follows:

- 1.—(1) Subsection 5 of section 82 of *The Highway Traffic Act*, <sup>s. 82 (5),
amended</sup> being chapter 202 of the Revised Statutes of Ontario, 1970, is amended by striking out "60" in the fifth line and inserting in lieu thereof "55".
- (2) Subsection 11 of the said section 82 is amended by adding <sup>s. 82 (11),
amended</sup> at the end thereof, "but such rate of speed shall not be more than 55 miles per hour".
2. This Act comes into force on the day it receives Royal Assent. <sup>Commence-
ment</sup>
3. This Act may be cited as *The Highway Traffic Amendment Act*, ^{Short title} 1975.

An Act to amend
The Highway Traffic Act

1st Reading

April 17th, 1975

2nd Reading

3rd Reading

MR. ROY

(Private Member's Bill)

5TH SESSION, 29TH LEGISLATURE, ONTARIO
24 ELIZABETH II, 1975

An Act to amend The Business Corporations Act

MR. ROY

EXPLANATORY NOTE

The purpose of this Bill is to prevent corporations from forcing persons to submit their fingerprints in exchange for the right to shop at stores owned by the corporation.

BILL 58

1975

An Act to amend The Business Corporations Act

HER MAJESTY, by and with the advice and consent of the Legislative Assembly of the Province of Ontario, enacts as follows:

1. *The Business Corporations Act*, being chapter 53 of the Revised Statutes of Ontario, 1970, is amended by adding thereto the following sections:

20a.—(1) Subject to subsection 2, no corporation shall require a person to submit a fingerprint as part of a contract for goods or services supplied by the corporation. ss. 20a, 20b,
enacted
Finger-
prints
prohibited

(2) A corporation may require a fingerprint to be submitted by a person where, Exception

- (a) payment for the goods and services supplied by the corporation is to be by means of a cheque; and
- (b) the person is not able to supply any other form of identification other than a fingerprint.

(3) Where a fingerprint is required under subsection 2, the corporation requiring the fingerprint shall post a sign on the outside or entrance way to the corporation sufficient to notify a person before he begins to contract for goods or services that a fingerprint may be required. Notice to
be given

20b.—(1) Where a fingerprint is submitted under subsection 2 of section 20a, the fingerprint shall be used only to verify the identification of the person submitting the fingerprint and shall be returned to that person after the verification has been made. Verification
only

(2) No copy either by photocopying, Xerox or any other means of copying shall be made of a fingerprint submitted under subsection 2 of section 20a. No copies
to be made

Commence-
ment

2. This Act comes into force on the day it receives Royal Assent.

Short title

3. This Act may be cited as *The Business Corporations Amendment Act, 1975*.

An Act to amend
The Business Corporations Act

1st Reading

April 17th, 1975

2nd Reading

3rd Reading

MR. ROY

(Private Member's Bill)

5TH SESSION, 29TH LEGISLATURE, ONTARIO
24 ELIZABETH II, 1975

An Act to amend The Forestry Act

THE HON. L. BERNIER
Minister of Natural Resources

EXPLANATORY NOTES

SECTION 1. The definition of "Minister" is updated. The definition of "Ministry" is added.

SECTION 2. The Minister, subject to the approval of the Lieutenant Governor in Council, is authorized to establish programs for the encouragement of forestry.

An Act to amend The Forestry Act

HER MAJESTY, by and with the advice and consent of the Legislative Assembly of the Province of Ontario, enacts as follows:

1. Clause *b* of section 1 of *The Forestry Act*, being chapter 181 of the Revised Statutes of Ontario, 1970, is repealed and the following substituted therefor:
 - (b) "Minister" means the Minister of Natural Resources;
 - (ba) "Ministry" means the Ministry of Natural Resources.
2. The said Act is amended by adding thereto the following section:

3a.—(1) The Minister, subject to the approval of the Lieutenant Governor in Council, may establish programs for the encouragement of forestry.

(2) A program may determine the conditions under which services are provided by the Ministry and expenses are allowed or grants are payable.

(3) A program may require that fees be paid by persons engaged in forestry to which the program applies and may fix the amounts thereof.

(4) A program may be made effective retroactively to a date not earlier than the 1st day of January, 1973.

(5) The moneys required for the purposes of a program shall, in respect of the years 1973 and 1974, be paid out of the Consolidated Revenue Fund and for any year thereafter shall be paid out of the moneys appropriated therefor by the Legislature.
3. This Act comes into force on the day it receives Royal Assent.
4. This Act may be cited as *The Forestry Amendment Act, 1975*.

s. 1 (b),
re-enacteds. 3a,
enactedEstablish-
ment of
programsConditions
to services
or grants

Fees

Program may
be retro-
active

Moneys

Commence-
ment

Short title

An Act to amend
The Forestry Act

1st Reading

April 18th, 1975

2nd Reading

3rd Reading

THE HON. L. BERNIER
Minister of Natural Resources

(Government Bill)

BILL 59

5TH SESSION, 29TH LEGISLATURE, ONTARIO
24 ELIZABETH II, 1975

An Act to amend The Forestry Act

THE HON. L. BERNIER
Minister of Natural Resources

TORONTO

PRINTED BY J. C. THATCHER, QUEEN'S PRINTER FOR ONTARIO

An Act to amend The Forestry Act

HER MAJESTY, by and with the advice and consent of the Legislative Assembly of the Province of Ontario, enacts as follows:

1. Clause *b* of section 1 of *The Forestry Act*, being chapter 181 of the Revised Statutes of Ontario, 1970, is repealed and the following substituted therefor:
 - (b) "Minister" means the Minister of Natural Resources;
 - (ba) "Ministry" means the Ministry of Natural Resources.
2. The said Act is amended by adding thereto the following section:

3a.—(1) The Minister, subject to the approval of the Lieutenant Governor in Council, may establish programs for the encouragement of forestry.

(2) A program may determine the conditions under which services are provided by the Ministry and expenses are allowed or grants are payable.

(3) A program may require that fees be paid by persons engaged in forestry to which the program applies and may fix the amounts thereof.

(4) A program may be made effective retroactively to a date not earlier than the 1st day of January, 1973.

(5) The moneys required for the purposes of a program shall, in respect of the years 1973 and 1974, be paid out of the Consolidated Revenue Fund and for any year thereafter shall be paid out of the moneys appropriated therefor by the Legislature.
3. This Act comes into force on the day it receives Royal Assent.
4. This Act may be cited as *The Forestry Amendment Act, 1975*.

s. 1 (b),
re-enacted

s. 3a,
enacted

Establish-
ment of
programs

Conditions
to services
or grants

Fees

Program may
be retro-
active

Moneys

Commence-
ment

Short title

An Act to amend
The Forestry Act

1st Reading

April 18th, 1975

2nd Reading

April 29th, 1975

3rd Reading

April 29th, 1975

THE HON. L. BERNIER
Minister of Natural Resources

5TH SESSION, 29TH LEGISLATURE, ONTARIO
24 ELIZABETH II, 1975

**An Act to amend
The Ministry of Government Services Act, 1973**

MR. SINGER

EXPLANATORY NOTE

The Bill expands the present section of the Act to require tenders for the purchase of real or personal property exceeding \$750.

BILL 60

1975

**An Act to amend
The Ministry of Government Services Act, 1973**

HER MAJESTY, by and with the advice and consent of the Legislative Assembly of the Province of Ontario, enacts as follows:

1. Section 13 of *The Ministry of Government Services Act, 1973*, ^{s. 13,} being chapter 2, is repealed and the following substituted therefor: ^{re-enacted}

13. Before the Minister, for and in the name of the Crown, ^{Tenders} enters into a contract in respect of the construction, renovation or repair of a public work or the purchase of any commodity or real property or interest therein, he shall invite tenders therefor, except,

- (a) in cases of emergency where in the opinion of the Minister delay would be damaging; or
- (b) where the estimated cost of the work is less than \$750,

and the Minister shall report all cases referred to in clause *a* to the Legislature forthwith, if it is in session or, if not, at the next ensuing session.

2. This Act comes into force on the day it receives Royal Assent. ^{Commence-}
^{ment}
3. This Act may be cited as *The Ministry of Government Services* ^{Short title}
Amendment Act, 1975.

An Act to amend
The Ministry of Government
Services Act, 1973

1st Reading

April 21st, 1975

2nd Reading

3rd Reading

MR. SINGER

(Private Member's Bill)

5TH SESSION, 29TH LEGISLATURE, ONTARIO
24 ELIZABETH II, 1975

**An Act for the Promotion and
Protection of the Health and Safety
of Persons engaged in Occupations**

MR. MARTEL

EXPLANATORY NOTE

The purpose of the Bill is to consolidate matters dealing with the health and safety of workers and place them under the jurisdiction of the Ministry of Labour.

The Bill also establishes a department, to be part of the Ministry of Labour, which is responsible for research and the setting and enforcing of standards to protect workers.

BILL 61

1975

**An Act for the Promotion and
Protection of the Health and Safety
of Persons engaged in Occupations**

HER MAJESTY, by and with the advice and consent of the Legislative Assembly of the Province of Ontario, enacts as follows:

1. In this Act,

Interpre-
tation

- (a) "chief occupational medical officer" means the person appointed as the chief occupational medical officer pursuant to section 7;
- (b) "council" means the Occupational Health Council appointed under section 8;
- (c) "department" means the occupational health and safety department established pursuant to section 2;
- (d) "International Standard Classification of Occupations" means the booklet as published and revised from time to time by the International Labour Organization and entitled "International Standard Classification of Occupations";
- (e) "Minister" means the Minister of Labour;
- (f) "Ministry" means the Ministry of Labour;
- (g) "occupation" means employment, business, calling or pursuit but does not include an endeavour not constituting one of the classes of occupations in the International Standard Classification of Occupations;
- (h) "occupational health" means,
 - (i) the promotion and maintenance of the highest degree of physical, mental and social well-being of workers,

- (ii) the prevention among workers of ill health caused by their working conditions,
 - (iii) the protection of workers in their employment from risks resulting from factors adverse to health,
 - (iv) the placing and maintenance of workers in an occupational environment adapted to their physiological and psychological condition;
- (i) "occupational health officer" means a person designated as an occupational health officer under section 5;
- (j) "occupational health service" means a service organized in or near a place of employment for the purposes of,
- (i) protecting workers against any health hazard that may arise out of their work or the conditions under which it is carried on,
 - (ii) ensuring the workers' physical and mental adjustment in their employment and ensuring their assignment to jobs for which they are suited, and
 - (iii) contributing to the establishment and maintenance of a high degree of physical and mental well-being of the workers;
- (k) "occupational rehabilitation" means measures that assist workers to return to work following injury or disease however caused and that assist persons suffering from the disabling effects of injury, disease or congenital deformity in obtaining or retaining employment;
- (l) "place of employment" means any building, workshop, structure, mine or other premises in which one or more workers usually work;
- (m) "worker" means a person who is engaged in an occupation;
- (n) "working place" means a location other than a place of employment where one or more workers are engaged in work.

2. For the purpose of providing for the administration of this Act, the Minister shall establish a department within the Ministry to be known as the occupational health and safety department. Department established

3. The department shall, Duties of department

- (a) be concerned with occupational health generally and the maintenance of reasonable standards for the protection of the health and safety of workers in Ontario;
- (b) be responsible for the day to day administration of this Act and the regulations;
- (c) prepare and maintain morbidity and accident statistics relating to workers and do so either alone or in conjunction with the Workmen's Compensation Board and the Ministry of Health; and
- (d) do such other things in connection with occupational health as the Minister may direct.

4. The department may, Powers of department

- (a) provide assistance to persons concerned with occupational health and provide services to assist persons in charge of the operation of places of employment and working places in maintaining reasonable standards for the protection of the health and safety of workers;
- (b) promote or conduct studies and research projects in connection with problems relating to the health and safety of workers; and
- (c) encourage or conduct educational programs for promoting the health and safety of workers.

5. The Minister may designate as occupational health officers any of the persons employed in the department. Designation of occupational health officers

6.—(1) For the purpose of the administration of this Act, an occupational health officer may, Powers of occupational health officer

- (a) enter and inspect a place of employment and a working place and every part thereof at all reasonable times both day and night without prior notification when he has reasonable grounds to believe that a worker is employed therein or

thereat, and test, take such samples and make such examinations as he considers necessary or advisable;

- (b) require the production of the records, documents and reports kept pursuant to this Act, and inspect, examine and make a copy of any of them;
- (c) make such examination and inquiry as may be necessary to ascertain whether the provisions of this Act are being complied with;
- (d) require any person whom he finds in or at a place of employment or working place to give such information as it is in his power to give as to who is the person in charge of the operation of the place of employment or working place;
- (e) take with him to a place of employment or working place, one or more persons to assist him, and may make arrangements with the person in charge of the operation of a place of employment or working place for an assistant to enter the place of employment or the working place and conduct tests or take samples;
- (f) do such other things as may be authorized by the Minister.

Idem

(2) The person in charge of the operation of a place of employment or working place and his agents and servants shall furnish such means required by an occupational health officer as are necessary for an entry, inspection, examination, inquiry, the making of tests and the taking of samples or otherwise for the exercise of his powers under this Act in relation to that place of employment or working place.

Appoint-
ment of
medical
practitioner
as chief
occupa-
tional
medical
officer

7. The Minister shall appoint as chief occupational medical officer for the purposes of this Act a person who is a legally qualified medical practitioner and who has training and experience in occupational health.

Appoint-
ment of
Occupational
Health
Council

8.—(1) Subject to subsection 2, the Lieutenant Governor in Council may appoint a council to be known as the Occupational Health Council consisting of not less than nine or more than twelve persons whose particular knowledge and experience would be of assistance in the giving of advice concerning the protection and promotion of the health and safety of persons at work and with respect to occupational health generally.

(2) The membership of the council shall include persons ^{Membership} who represent agriculture and management and labour respectively in the field of industry.

(3) One of the members of the council shall be designated ^{Chairman} as chairman by the Lieutenant Governor in Council.

(4) The member designated as chairman shall hold office ^{Term of office} at the pleasure of the Lieutenant Governor in Council.

(5) The members of the council other than the chairman ^{Idem} shall be appointed for terms of office of such duration so that at any given time there will likely be some members who will have been in office for a sufficient period to have gained experience as council members.

(6) Each member of the council shall hold office until ^{Idem} his successor is appointed and may be reappointed from time to time.

(7) The council shall meet at the call of the Minister or ^{Time of meetings} the chairman but in any case at least once a year.

9. The council may make recommendations to the Minister, ^{Duties and powers of council}

- (a) concerning occupational health generally and the protection of the health and safety of workers in specific kinds of situations;
- (b) concerning the appointment of other committees by the Minister to assist in the administration of this Act;
- (c) concerning any other matter referred to it by the Minister for recommendation.

10. The Minister may, on the recommendation of the council, appoint such other committees and assign to them ^{Appointment of other committees} such duties as he deems advisable.

11. The Minister may, ^{Certain powers of Minister}

- (a) appoint consultants and professional and technical personnel including legally qualified medical practitioners;
- (b) conduct seminars and courses of training and take other measures for improving the qualifications of persons directly concerned with occupational health

or being employed or intending to become employed in an occupational health service;

- (c) provide such facilities and services in the field of occupational rehabilitation as he deems advisable.

Power to
require
medical
supervision

12.—(1) Where it appears to the Minister upon the advice of the chief occupational medical officer,

- (a) that in any place of employment or in any class of place of employment or in any occupation,

(i) cases of illness have occurred which he has reason to believe may be due to the nature of a process or other conditions of work,

(ii) by reason of changes in any process or in the substances used in any process, or by reason of the introduction of any new process or new substance for use in a process, there may be risk of injury to the health of persons employed in that process, or

(iii) a serious environmental hazard has been created of such a degree that an adverse effect upon the health of the persons exposed to such hazard could have resulted; or

- (b) that there may be risk of injury to the health of persons employed in a place of employment,

(i) from any substance or material brought to the place of employment to be used or handled therein, or

(ii) from any change in the conditions of work or other conditions in the place of employment,

he may by order, upon receiving the recommendation of the chief occupational medical officer to that effect, require such reasonable arrangements to be made for the medical supervision of the persons, or any class of the persons, employed at that place of employment or class of place of employment or the persons engaged in such occupation, as the case may be, as he considers advisable.

Interpre-
tation

(2) In this section, "medical supervision" includes both complete and partial medical examinations and the making of such examinations at stated intervals.

13.—(1) Where the Minister is of the opinion that any manufacture, machinery, plant, equipment, appliance, process or description of manual labour at a place of employment or a working place is of such a nature as to cause risk of bodily injury or ill health to the persons employed thereat or any class of those persons, he may by order require the person in charge of the operation of the place of employment or working place, as the case may be, to do such things for the protection of those persons as appear to him to be reasonably practicable and to meet the necessity of the case.

Order for protective measures where risk of injury

(2) An order made by the Minister under subsection 1 may,

Order of Minister

- (a) prohibit the employment of, or modify or limit the hours of employment of, all persons or any class of persons in connection with any manufacture, machinery, plant, process or description of manual labour;
- (b) prohibit, limit or control the use of any material, process or equipment; or
- (c) impose duties on employees as well as on the persons in charge of the operation of places of employment and working places.

14.—(1) Any person aggrieved by an order of the Minister made under section 13 may appeal against the order to a judge of a county or district court at any time within sixty days after the date of the order.

Appeal of certain orders to judge of county or district court

(2) An appeal under subsection 1 shall be by notice of motion, which shall be served on the Minister and on such other persons as the judge may direct.

Appeal by notice of motion

(3) Upon an appeal, the judge may dispose of the matter in a summary way or direct an issue to be tried in court.

Disposition of judge

15. Any person who was a party to an appeal under section 14 and who is aggrieved by a decision of the court or judge made on the appeal may, within thirty days after the date of the decision, appeal against the decision to the Supreme Court in accordance with the rules of court.

Appeal to Supreme Court

16. The taking of an appeal under section 14 or 15 does not stay the operation of the order in respect of which the appeal is taken.

Appeal does not stay order

Reports to
be furnished
by medical
practitioner,
hospital, ...
etc.

17.—(1) Every legally qualified medical practitioner or other qualified person attending or consulted respecting a person who became ill or injured,

(a) while employed at a place of employment or a working place; or

(b) while being otherwise engaged in an occupation,

shall furnish without charge to the chief occupational medical officer upon request of the officer such reports concerning the illness or injury of the person as the chief occupational medical officer may require for the purposes of this Act.

Reports

(2) Where an ill or injured person of the kind mentioned in subsection 1 is or has been a patient in a hospital, the person in charge of the administrative affairs of that hospital shall furnish without charge to the chief occupational medical officer upon request such reports concerning the illness or injury of the person as the chief occupational medical officer may require for the purposes of this Act.

Medical
examination
required
in certain
cases

18. Where the Minister is of the opinion that a person employed at a place of employment or working place has become or may become ill as a consequence of being exposed to any substance, process or environmental condition, he may by order, upon receiving the recommendation of the chief occupational medical officer to that effect, require that person to undergo a medical examination and require the legally qualified medical practitioner conducting the examination to furnish the chief occupational medical officer with such reports respecting the examination as the chief occupational medical officer may require.

Occupational health
committee
in certain
places of
employment

19.—(1) In every place of employment at which ten or more persons are employed, the person in charge of the operation of the place of employment shall cause a committee to be established to be known as an occupational health committee.

Members of
committee

(2) The committee shall consist of not less than two or more than twelve persons of whom at least half shall be persons representing employees other than employees connected with the management of the place of employment, and either elected by the employees they represent or appointed in accordance with the constitution of the labour union of which the employees are members.

(3) The committee shall have a continuing concern with respect to the health and safety of the persons employed in the place of employment. Duty of committee

(4) The person in charge of the operation of the place of employment shall cause the names of the committee to be posted in a conspicuous place. Posting

(5) The duties of the committee include, Duties of committee

- (a) the receipt, consideration and disposition of complaints respecting the health and safety of the employees;
- (b) participation in the identification and control of health and safety hazards within the place of employment;
- (c) co-operation with the occupational health service if such a service has been established within the place of employment;
- (d) the establishment and promotion of health and safety programs for the education and information of the employees; and
- (e) the maintenance of records in connection with the receipt and disposition of complaints and the attendance to other matters relating to the duties of the committee.

20.—(1) The Minister may designate a place of employment or a class of a place of employment as requiring an occupational health service, having regard to the type of industry being carried on therein, the number of persons employed thereat and the degree of hazard thereof. Where occupational health service required

(2) Where a place of employment has been designated or is a member of a class of a place of employment designated under subsection 1, the person in charge of the operation of the place of employment shall cause an occupational health service to be established and maintained for the place of employment in accordance with this section. Occupational health service to be established

(3) The Minister may specify the services that are to be provided by the occupational health service for any place of employment or for a place of employment that is a member of a class of a place of employment designated under subsection 1. Services to be provided

Approval
of Minister

(4) The establishment and continued operation of an occupational health service shall be subject to the approval of the Minister.

Regulations

21. The Lieutenant Governor in Council may make regulations,

- (a) prescribing the standards to be established and maintained by the persons in charge of places of employment or working places for the protection of the health and safety of the persons employed thereat;
- (b) classifying places of employment;
- (c) defining certain processes, substances and working places as being hazardous and prescribing measures to be taken for the protection of the health and safety of persons exposed thereto;
- (d) prescribing the measures to be taken by the person in charge of the operation of every place of employment that is a member of a class of place of employment specified in the regulations for the purpose of this clause for the protection of the health and safety of the persons employed thereat;
- (e) specifying those diseases and conditions contracted or received by a worker or concerning which the chief occupational medical officer is required to be notified and prescribing the manner of notification and the records to be maintained in connection with any specified disease or condition;
- (f) requiring plans of any new plant or extension of an existing plant, including the details of the processes and materials to be used, to be furnished to the department in connection with such classes of places of employment as may be specified in the regulations for the purpose of this clause;
- (g) prescribing conditions of employment, and requiring medical examinations at regular intervals, for those classes of workers specified in the regulations for the purpose of this clause who by reason of age, sex or pregnancy are or may be specially subject to risk of injury or ill health caused by the hazards of the working environment.

22. This Act applies to, Application to Crown

- (a) the Crown in right of Ontario and every Ministry, board, commission and other agency of the Crown and any Crown Corporation; and
- (b) the Crown in right of Canada in so far as the Crown in right of Canada may submit to the operation of this Act.

23.—(1) A person who contravenes any of the provisions Offences of this Act or the regulations or who fails to comply with an order made by the Minister under this Act is guilty of an offence and liable on summary conviction to the fines provided by this section.

(2) Where an offence is committed by an individual, Penalties the individual is liable,

- (a) for a first offence, to a fine of not less than \$10 or more than \$100 and, in the case of a continuing offence to a further fine not exceeding \$25 for each day during which the offence continues;
- (b) for a second or subsequent offence, to a fine of not less than \$100 or more than \$500 and, in the case of a continuing offence to a further fine not exceeding \$50 for each day during which the offence continues.

(3) Where an offence is committed by a corporation, the Idem corporation is liable,

- (a) for a first offence, to a fine of not less than \$100 or more than \$1,000 and, in the case of a continuing offence to a further fine not exceeding \$250 for each day during which the offence continues;
- (b) for a second or subsequent offence, to a fine of not less than \$1,000 or more than \$5,000 and, in the case of a continuing offence to a further fine not exceeding \$500 for each day during which the offence continues.

(4) Where default is made in payment of any fine, costs No imprisonment or sum ordered to be paid no imprisonment in default of the payment shall be ordered.

(5) The convicting provincial judge or justice of the peace Copy of conviction to Minister shall upon request of the Minister supply the Minister with

two certified copies of any conviction made by him under or pursuant to this Act.

Judgment

(6) The Minister or his solicitor or agent may, upon payment of the prescribed fee, file a certified copy of a conviction under this Act in the office of the local clerk of the county or district court, and when so filed the copy of the conviction shall, for the purpose of recovering the fine, costs or sum ordered to be paid, be entered as a judgment of the county or district court and may be enforced as a judgment of that court.

Commence-
ment

24. This Act comes into force on a day to be named by proclamation of the Lieutenant Governor.

Short title

25. This Act may be cited as *The Occupational Health Act, 1975*.

An Act for the Promotion
and Protection of the Health
and Safety of Persons engaged
in Occupations

1st Reading

April 22nd, 1975

2nd Reading

3rd Reading

MR. MARTEL

(Private Member's Bill)

5TH SESSION, 29TH LEGISLATURE, ONTARIO
24 ELIZABETH II, 1975

An Act to amend The Liquor Control Act

MR. SAMIS

TORONTO

PRINTED BY J. C. THATCHER, QUEEN'S PRINTER FOR ONTARIO

EXPLANATORY NOTE

The purpose of the Bill is to enable independent, owner operated grocery stores to sell beer and apple cider.

An Act to amend The Liquor Control Act

HER MAJESTY, by and with the advice and consent of the Legislative Assembly of the Province of Ontario, enacts as follows:

1. Subsection 1 of section 8 of *The Liquor Control Act*, being ^{s. 8 (1),} chapter 249 of the Revised Statutes of Ontario, 1970, is ^{amended} amended by adding thereto the following clause:

(ka) to appoint independent, owner operated grocery stores as vendors of beer and apple cider and to regulate or restrict the keeping for sale, sale and delivery of such beer or apple cider.
2. This Act comes into force on the day it receives Royal Assent. ^{Commence-}
^{ment}
3. This Act may be cited as *The Liquor Control Amendment* ^{Short title}
Act, 1975.

An Act to amend
The Liquor Control Act

1st Reading

April 24th, 1975

2nd Reading

3rd Reading

MR. SAMIS

(Private Member's Bill)

5TH SESSION, 29TH LEGISLATURE, ONTARIO
24 ELIZABETH II, 1975

An Act to amend The Beds of Navigable Waters Act

MR. HAGGERTY

TORONTO

PRINTED BY J. C. THATCHER, QUEEN'S PRINTER FOR ONTARIO

EXPLANATORY NOTE

The purpose of this Bill is to provide a uniform interpretation of deeds of property bounded by navigable water so that the high water mark shall be deemed to be the boundary of such property.

BILL 63

1975

An Act to amend The Beds of Navigable Waters Act

HER MAJESTY, by and with the advice and consent of the Legislative Assembly of the Province of Ontario, enacts as follows:

- 1.—(1) *The Beds of Navigable Waters Act*, being chapter 41 of the Revised Statutes of Ontario, 1970, is amended by renumbering section 1 as section 1a and by adding thereto the following section: Act,
amended

1. In this Act, Interpre-
tation

- (a) "bed" used in relation to a navigable body of water shall include all land and land under water lying below the high water mark; and
- (b) "high water mark" shall mean the level at which the water in a navigable body of water has been held for a period sufficient to leave a watermark along the bank of such navigable body of water.

- (2) Section 1a of the said Act, as renumbered by subsection 1, is amended by adding thereto the following subsections: s. 1a,
amended

(2) Where in any patent, conveyance or deed from the Crown made either heretofore or hereafter, the boundary of any land is described as a navigable body of water or the edge, bank, beach, shore, shoreline or high water mark thereof or in any other manner with relation thereto, such boundary shall be deemed always to have been the high water mark of such navigable body of water. Where
boundary
body of
navigable
water

(3) The Minister of Natural Resources may, upon the recommendation of the Surveyor-General for Ontario, fix the high water mark of any navigable body of water or any part thereof, and his decision shall be final and conclusive. Minister
may fix
high water
mark

s. 2,
amended

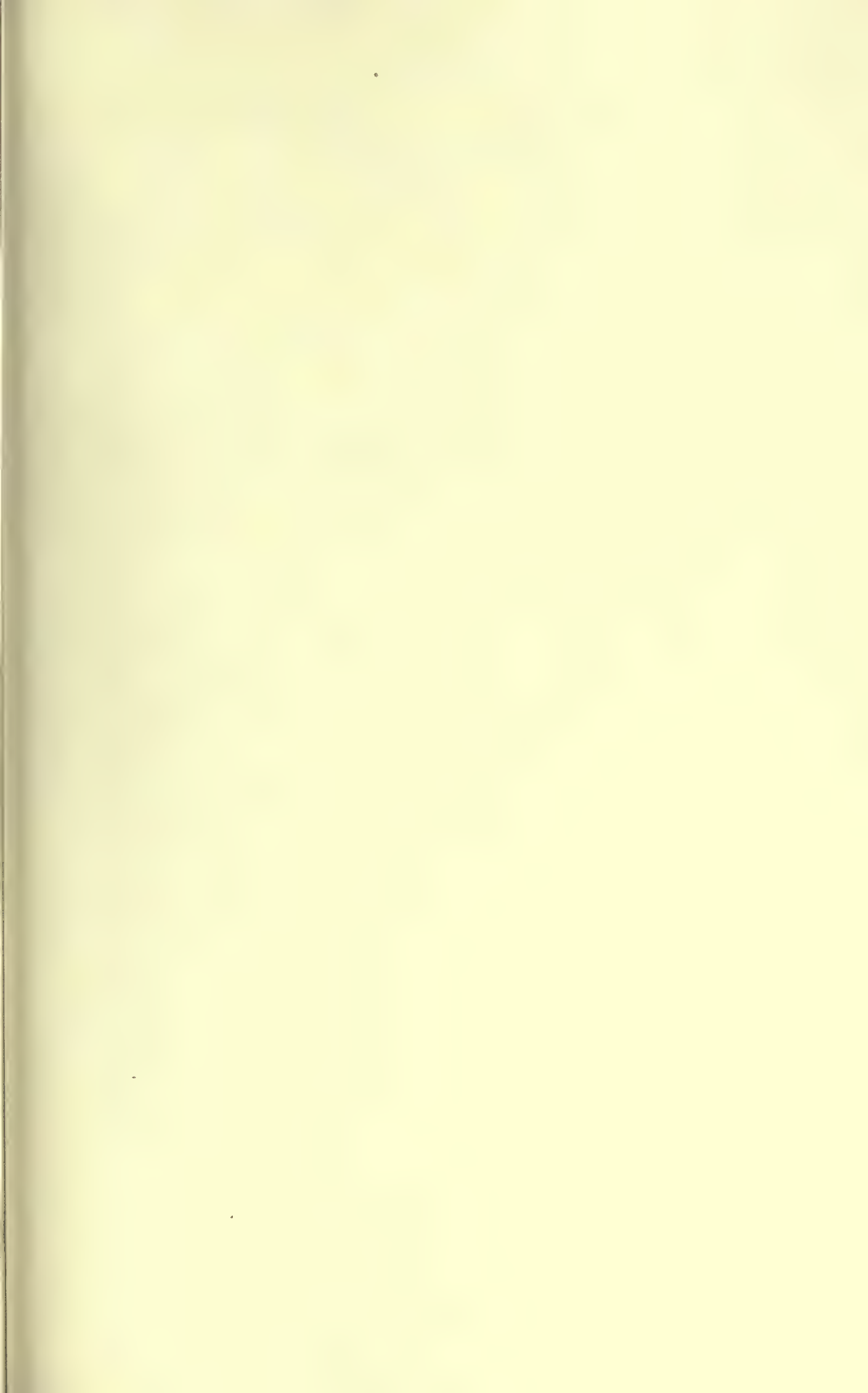
2. Section 2 of the said Act is amended by striking out "Section 1" in the first line and inserting in lieu thereof "Section 1a".

Commence-
ment

3. This Act comes into force on the day it receives Royal Assent.

Short title

4. This Act may be cited as *The Beds of Navigable Waters Amendment Act, 1975*.



An Act to amend
The Beds of Navigable Waters Act

1st Reading

April 28th, 1975

2nd Reading

3rd Reading

MR. HAGGERTY

(*Private Member's Bill*)

5TH SESSION, 29TH LEGISLATURE, ONTARIO
24 ELIZABETH II, 1975

An Act to amend The Training Schools Act

THE HON. R. T. POTTER
Minister of Correctional Services

EXPLANATORY NOTES

SECTION 1. The section repealed authorizes a provincial court judge to send a child to a training school on social or welfare grounds. These are:

1. the parents have not the capacity to control the child or provide for his social needs;
2. there is no other suitable welfare agency available;
3. the training school can provide the necessary training and treatment.

The remaining grounds in section 9 of the Act are for contravention of a statute.

SECTION 2. The provision repealed provides for appeals from the decisions under section 8 of the Act which is repealed by section 1 of this Bill.

BILL 64

1975

An Act to amend The Training Schools Act

HER MAJESTY, by and with the advice and consent of the Legislative Assembly of the Province of Ontario, enacts as follows:

1. Section 8 of *The Training Schools Act*, being chapter 467 of the Revised Statutes of Ontario, 1970, is repealed. s. 8,
repealed
2. Subsection 1 of section 13 of the said Act is repealed. s. 13 (1),
repealed
3. This Act comes into force on a day to be named by proclamation of the Lieutenant Governor. Commence-
ment
4. This Act may be cited as *The Training Schools Amendment Act, 1975*. Short title

An Act to amend
The Training Schools Act

1st Reading

April 29th, 1975

2nd Reading

3rd Reading

THE HON. R. T. POTTER
Minister of Correctional Services

(Government Bill)

BILL 64

5TH SESSION, 29TH LEGISLATURE, ONTARIO
24 ELIZABETH II, 1975

An Act to amend The Training Schools Act

THE HON. R. T. POTTER
Minister of Correctional Services

BILL 64

1975

An Act to amend The Training Schools Act

HER MAJESTY, by and with the advice and consent of the Legislative Assembly of the Province of Ontario, enacts as follows:

1. Section 8 of *The Training Schools Act*, being chapter 467 of the Revised Statutes of Ontario, 1970, is repealed. s. 8,
repealed
2. Subsection 1 of section 13 of the said Act is repealed. s. 13 (1),
repealed
3. This Act comes into force on a day to be named by proclamation of the Lieutenant Governor. Commence-
ment
4. This Act may be cited as *The Training Schools Amendment Act, 1975*. Short title

An Act to amend
The Training Schools Act

1st Reading

April 29th, 1975

2nd Reading

May 5th, 1975

3rd Reading

May 5th, 1975

• THE HON. R. T. POTTER
Minister of Correctional Services

5TH SESSION, 29TH LEGISLATURE, ONTARIO
24 ELIZABETH II, 1975

An Act to amend The Public Utilities Act

MR. NEWMAN (Windsor-Walkerville)

TORONTO

PRINTED BY J. C. THATCHER, QUEEN'S PRINTER FOR ONTARIO

EXPLANATORY NOTE

The purpose of the Bill is to provide for a review before a public utility can shut off water, hydro, gas or oil.

An Act to amend The Public Utilities Act

HER MAJESTY, by and with the advice and consent of the Legislative Assembly of the Province of Ontario, enacts as follows:

1. Subsection 3 of section 27 of *The Public Utilities Act*,^{s. 27 (3), amended} being chapter 390 of the Revised Statutes of Ontario, 1970, is amended by adding at the commencement thereof "Subject to section 27b".
2. The said Act is amended by adding thereto the following^{ss. 27a, 27b, enacted} sections:

27a.—(1) In this section, "Board" means the Public Utilities Review Board.^{Interpretation}

(2) A board to be known as the "Public Utilities Review Board" is hereby established and shall consist of not fewer than three persons appointed by the Lieutenant Governor in Council.^{Board}

(3) The Lieutenant Governor in Council may designate one of the members to be chairman of the Board.^{Chairman}

(4) One member of the Board constitutes a quorum.^{Quorum}

(5) The Lieutenant Governor in Council may fill any vacancy among the members of the Board.^{Vacancies}

(6) The Board shall hold such hearings and perform such other duties as are assigned to it by or under this Act.^{Hearings}

27b.—(1) No corporation shall shut off a supply of a public utility under section 27 unless a hearing has been held to determine that the supply should be shut off.^{Hearing}

(2) Where a corporation determines to shut off a supply under section 27, it shall cause notice of the proposed shut off to be given to all parties that may be affected, indi-^{Notice}

cating that a hearing will be held by the Board within thirty days from the date of the notice.

Application
of 1971, c. 47

(3) Part I of *The Statutory Powers Procedure Act, 1971* applies to a hearing under subsection 1.

Board may
combine
hearings

(4) The Board may combine two or more related hearings and conduct them in all respects and for all purposes as one hearing.

Decision
final

(5) A decision of the Board is final, except as to questions of law.

Commence-
ment

3. This Act comes into force on the day it receives Royal Assent.

Short title

4. This Act may be cited as *The Public Utilities Amendment Act, 1975*.

An Act to amend
The Public Utilities Act

1st Reading

April 29th, 1975

2nd Reading

3rd Reading

MR. NEWMAN (Windsor-Walkerville)

(Private Member's Bill)

5TH SESSION, 29TH LEGISLATURE, ONTARIO
24 ELIZABETH II, 1975

**An Act to amend
The Health Insurance Act, 1972**

MR. ROY

EXPLANATORY NOTE

The purpose of the Bill is to prevent physicians and practitioners who bill patients directly from charging persons over sixty-five years of age or persons receiving public assistance amounts greater than that paid for insured services under the Act.

BILL 66

1975

**An Act to amend
The Health Insurance Act, 1972**

HER MAJESTY, by and with the advice and consent of the Legislative Assembly of the Province of Ontario, enacts as follows:

1. *The Health Insurance Act, 1972*, being chapter 91, is amended ^{s. 20a, enacted} by adding thereto the following section:

20a. Where a physician or a practitioner submits his ^{Billing the patient} accounts directly to his patient, he may charge an amount greater than that which is payable for insured services under this Act, except where the patient is over sixty-five years of age or is in receipt of public assistance.

2. Subsection 1 of section 51 of the said Act, as amended by ^{s. 51 (1), amended} the Statutes of Ontario, 1974, chapter 60, section 12, is further amended by adding thereto the following clause:

(sa) prescribing the persons who shall be deemed to be receiving public assistance for the purposes of section 20a.

3. This Act comes into force on the day it receives Royal Assent. ^{Commence-ment}
4. This Act may be cited as *The Health Insurance Amendment Act, 1975*. ^{Short title}

An Act to amend
The Health Insurance Act, 1972

1st Reading

May 1st, 1975

2nd Reading

3rd Reading

MR. ROY

(Private Member's Bill)

5TH SESSION, 29TH LEGISLATURE, ONTARIO
24 ELIZABETH II, 1975

An Act to amend The Condominium Act

MR. BRAITHWAITE

TORONTO

PRINTED BY J. C. THATCHER, QUEEN'S PRINTER FOR ONTARIO

EXPLANATORY NOTES

This Bill makes further amendments to *The Condominium Act* so that condominium purchasers and owners will be better able to successfully cope with the many problems associated with condominium ownership.

The transition from the original developers to the individual owners is facilitated by amendments governing the appointment of a Registrar of Condominiums, the common elements, leasing, absentee landlords, and the continued ownership of some units by the developer. Further, the Bill makes provision for the handling of many of the continuing difficulties which plague Boards of Directors and complicate the management of condominiums after the developers leave.

Lastly, this Bill simplifies enforcement of compliance with the terms of *The Condominium Act* by placing all proceedings into the Provincial Courts.

SECTION 1. The amendment sets out additional requirements of all condominium declarations.

SECTION 2. The amendment establishes the post of Registrar of Condominiums.

An Act to amend The Condominium Act

HER MAJESTY, by and with the advice and consent of the Legislative Assembly of the Province of Ontario, enacts as follows:

1. Subsection 1 of section 3 of *The Condominium Act*, being s. 3 (1),
chapter 77 of the Revised Statutes of Ontario, 1970, as amended
amended by the Statutes of Ontario, 1974, chapter 133,
section 2, is further amended by striking out "and" at the
end of clause *d* and by adding thereto the following clauses:

- (f) the allocation of a specific and numbered parking space for each housing unit;
- (g) a requirement that a performance bond be entered into by a contractor where the amount of a contract is greater than \$5,000 and that such performance bond is filed with the corporation; and
- (h) provisions for the establishment of a reserve fund to be set up for the purpose of maintenance and replacement and that such fund be not less than 5 per cent of the total cost of the project.

2. Section 5 of the said Act, as amended by the Statutes of s. 5,
Ontario, 1974, chapter 133, section 3, is further amended by amended
adding thereto the following subsection:

(5) There shall be a Registrar of Condominiums appointed Registrar
by the Lieutenant Governor in Council who shall, of
Condo-
miniums

(a) keep a central register of,

(i) Condominium Corporations Indexes, and

(ii) Condominium Registers;

(b) administer the trust fund referred to in subsection 1 of section 24c;

(c) keep a register available to the public containing the particulars of all transactions registered under this section; and

(d) certify titles to all lands registered under this section.

s. 6,
amended

3. Section 6 of the said Act is amended by adding thereto the following subsection:

Ownership
of units

(5) No person or group of persons shall own more than one unit in the property at any time.

s. 7,
amended

4. Section 7 of the said Act is amended by adding thereto the following subsection:

Facilities

(6a) Every facility located within the boundaries of the plan of survey of a property shall be included in the common elements and no such facility shall be withdrawn therefrom without the consent of the owners who own 80 per cent of the common elements.

s. 9 (7a),
amended

5.—(1) Subsection 7a of section 9 of the said Act, as enacted by the Statutes of Ontario, 1974, chapter 133, section 5, is amended by striking out "for the remainder of the term of the director removed" in the fifth and sixth lines and inserting in lieu thereof "for a term specified in the declaration or by-laws".

s. 9,
amended

(2) The said section 9, as amended by the Statutes of Ontario, 1974, chapter 133, section 5, is further amended by adding thereto the following subsections:

Removal
of member
of board

(20) A member of the corporation may apply to the Ontario Housing Corporation or the Central Mortgage and Housing Corporation, where either or both of them are the mortgagees or the mortgage insurers, to remove a member of the board where the application is supported by a two-thirds majority vote of the members of the corporation.

Records
to be
filed
with
Registrar
of
Condo-
miniums

(21) The records of the corporation, together with an audited annual financial statement and the quarterly financial statements, shall be filed with the Registrar of Condominiums.

s. 12 (1),
amended

6.—(1) Subsection 1 of section 12 of the said Act is amended by inserting after "owner" in the first line "lessee or occupant".

SECTION 3. Self-explanatory.

SECTION 4. Self-explanatory.

SECTION 5.—Subsection 1. This amendment will ensure continuity of directors and in some instances where prior members are not to be restricted, will ensure the continuance of a member with past experience.

Subsection 2. The amendment would allow a majority of members of the corporation to remove a member of the board. The amendment also requires certain records to be filed with the Registrar of Condominiums.

SECTION 6.—Subsections 1 and 2. The amendment imposes an obligation upon all tenants and occupants, as well as owners, to abide by the provisions of the declaration and by-laws.

Subsection 3. The onus is on the owner to ensure that the lessee or occupant of his unit complies with the declaration and by-laws and does not exceed the privileges accorded to the owner.

SECTION 7. The purpose of the amendment is to ensure that every lessee is informed of the by-laws of the condominium.

SECTION 8. The purpose of the amendment is to relieve the problem of tracing absentee landlords.

SECTION 9. Self-explanatory.

SECTION 10. The amendment would give the corporation the power to renegotiate, as well as terminate, a management agreement.

SECTION 11. The section refers to the provision whereby a mortgagee can exercise the right of the owner to vote.

- s. 12 (2),
amended (2) Subsection 2 of the said section 12 is amended by inserting after "owner" in the first line "lessee or occupant" and by inserting after "owners" in the second line "lessees or occupants".
- s. 12,
amended (3) The said section 12 is amended by adding thereto the following subsection:
- Idem (2a) Each owner shall ensure that the lessee or occupant of his unit complies with the declaration and the by-laws and does not make demands on the common elements greater than the privileges accorded the owner.
- s. 12a,
enacted 7. The said Act is amended by adding thereto the following section:
- Lease to
contain
copy of
by-laws 12a. Where a corporation allows units to be leased, the by-laws of the corporation shall require that every lease agreement contain a copy of the by-laws.
- s. 13,
amended 8. Section 13 of the said Act, as amended by the Statutes of Ontario, 1974, chapter 133, section 10, is further amended by adding thereto the following subsection:
- Common
expenses
taken
out of
rent (4a) Where a unit is leased by an owner or the corporation, the corporation may apply any default in moneys owing towards the common expenses against any moneys owing for rent by the lessee.
- s. 14,
amended 9. Section 14 of the said Act, as amended by the Statutes of Ontario, 1974, chapter 133, section 11, is further amended by adding thereto the following subsection:
- Meaning
of sub-
stantial (5) The board shall determine whether the addition, alteration or improvement to or renovation of the common elements, or change in the assets of the corporation is substantial within the meaning of this section.
- s. 15a,
amended 10. Section 15a of the said Act, as enacted by the Statutes of Ontario, 1974, chapter 133, section 12, is amended by inserting after "terminate" in the second line "or renegotiate".
- s. 22,
amended 11. Section 22 of the said Act is amended by adding thereto the following subsection:
- Idem (2) A right to vote, as set out in subsection 1, shall only be exercisable where the mortgagor has been in default of payment for at least ninety days and where the mortgagee has filed an affidavit to this effect with the corporation.

s. 23 (1),
re-enacted

12.—(1) Subsection 1 of section 23 of the said Act, as amended by the Statutes of Ontario, 1974, chapter 133, section 13, is repealed and the following substituted therefor:

Offence

(1) Any person who does not perform any duty imposed by this Act or the regulations, or by the declaration or the by-laws is guilty of an offence and on summary conviction is liable to a fine of not more than \$1,000 for each offence.

s. 23 (2),
amended

(2) Subsection 2 of the said section 23 is amended by adding at the commencement thereof "Notwithstanding that the court may impose a fine under subsection 1".

s. 24a (1) (a),
amended

13.—(1) Clause *a* of subsection 1 of section 24a of the said Act, as enacted by the Statutes of Ontario, 1974, chapter 133, section 14, is amended by striking out "without delay" in the fourth line and inserting in lieu thereof "within six months".

s. 24a (1) (c),
amended

(2) Clause *c* of subsection 1 of the said section 24a is amended by striking out "without delay" in the third line and inserting in lieu thereof "within six months".

s. 24d (3),
amended

14. Subsection 3 of section 24d of the said Act, as enacted by the Statutes of Ontario, 1974, chapter 133, section 16, is amended by striking out "or units" in the second line.

s. 24d (6),
re-enacted

15. Subsection 6 of section 24d of the said Act, as enacted by the Statutes of Ontario, 1974, chapter 133, section 16, is repealed and the following substituted therefor:

"lease"
defined

(6) In this section, "lease" includes a licence to use or occupy and any agreement in the nature of a lease of any unit in all buildings originally constructed as condominiums

Commence-
ment

16. This Act comes into force on the day it receives Royal Assent.

Short title

17. This Act may be cited as *The Condominium Amendment Act, 1975*.

SECTION 12. The amendments would put the proceedings into a provincial court rather than a county or district court. The person charged would then be summoned to appear based on a sworn information.

SECTION 13.—Subsections 1 and 2. The time limit set out in the section is extended to six months.

SECTION 14. Since an owner can only own one unit, the reference to "units" is deleted.

SECTION 15. A developer is subject to the leasing provisions of the Act in all circumstances where a condominium is built as such whether it be new or old.

An Act to amend
The Condominium Act

1st Reading

May 5th, 1975

2nd Reading

3rd Reading

MR. BRAITHWAITE

(Private Member's Bill)

5TH SESSION, 29TH LEGISLATURE, ONTARIO
24 ELIZABETH II, 1975

**An Act to amend
The Municipality of Metropolitan Toronto Act**

THE HON. W. D. McKEOUGH
Treasurer of Ontario and Minister of Economics
and Intergovernmental Affairs

TORONTO

PRINTED BY J. C. THATCHER, QUEEN'S PRINTER FOR ONTARIO

EXPLANATORY NOTES

SECTION 1. The amendment increases the maximum penalty the Metropolitan Corporation may charge an area municipality for late payment of water charges from one-half of 1 per cent per month to 12 per cent per annum.

SECTION 2. The amendment enlarges the time within which the Metropolitan Council may object to the proposed stopping up of a highway by an area municipality from twenty-one days to sixty days.

SECTION 3. The effect of the amendment is to permit the operation of horse-drawn sightseeing vehicles and school buses operated under a contract with a board of education, school board or a private school; subject to these and certain other exceptions, local passenger transportation service within the Metropolitan Area is under the exclusive authority of the Toronto Transit Commission.

SECTION 4. By the new section 207*a*, the Exhibition Stadium Corporation is established for the operation, management and maintenance of Exhibition Stadium in accordance with the policies of the Metropolitan Council.

The new section 207*b* empowers the Metropolitan Corporation to build and operate stadia.

An Act to amend The Municipality of Metropolitan Toronto Act

HER MAJESTY, by and with the advice and consent of the Legislative Assembly of the Province of Ontario, enacts as follows:

1. Subsection 2 of section 43 of *The Municipality of Metropolitan Toronto Act*, being chapter 295 of the Revised Statutes of Ontario, 1970, is amended by striking out "not exceeding one-half of 1 per cent for each month or fraction thereof" in the fifth and sixth lines and inserting in lieu thereof "of 12 per cent per annum, or such lower rate as the Metropolitan Council determines" s. 43 (2),
amended
2. Subsection 2 of section 96 of the said Act, as re-enacted by the Statutes of Ontario, 1974, chapter 42, section 6, is amended by striking out "twenty-one" in the third line and inserting in lieu thereof "sixty" s. 96 (2),
amended
3. Subsection 2 of section 109 of the said Act is amended by striking out "buses owned and operated by" in the fifth line and inserting in lieu thereof "horse-drawn vehicles used for the purpose of providing sightseeing tours, buses owned and operated by or operated pursuant to a contract with" s. 109 (2),
amended
4. The said Act is amended by adding thereto the following sections: ss. 207a, 207b,
enacted

207a.—(1) In this section,

Interpre-
tation

- (a) "Board" means the Board of Management of the Corporation;
- (b) "Corporation" means the Exhibition Stadium Corporation;
- (c) "Exhibition Stadium" means the land and buildings in Exhibition Park known as the Canadian National Exhibition Stadium in The Municipality

of Metropolitan Toronto used for athletic contests, sporting events and public entertainments.

R.S.O. 1970,
c. 89, not
to apply

(2) *The Corporations Act* does not apply to the Corporation.

Corporation
established

(3) There is hereby established a corporation without share capital under the name of the "Exhibition Stadium Corporation" having as its purpose and objects, the operation, management and maintenance of the Exhibition Stadium as a stadium for the holding of athletic contests, sporting events, public entertainments and meetings.

Board of
Management

(4) There shall be a Board of Management of the Corporation consisting of seven members and composed of,

- (a) three members appointed by the Canadian National Exhibition Association from among its membership;
- (b) two members appointed by the Lieutenant Governor in Council;
- (c) the Metropolitan Chairman or his delegate who shall be a member of the Metropolitan Council; and
- (d) one member appointed by the Metropolitan Council, who shall be a member of the Metropolitan Council.

Term of
office

(5) The members of the Board to be appointed under clauses *a* and *b* of subsection 4 shall be appointed for a term of office not exceeding three years, and the member of the Board to be appointed under clause *d* of subsection 4 shall be appointed for a term of office not exceeding his term of office in the Metropolitan Council, provided that such members shall be eligible for reappointment and provided that a member of the Board may at any time be removed from office before the expiration of his term by the person or body responsible under subsection 4 for his appointment, and such vacancy, or a vacancy resulting from death or resignation, may be filled by such person or body for the remainder of the unexpired term.

Chairman,
vice-
chairman
and quorum

(6) The Board shall elect a chairman from among its members appointed by the Canadian National Exhibition Association and may elect a vice-chairman, and a majority of the members of the Board constitutes a quorum for the transaction of business at meetings of the Board.

Powers
of
Corporation

(7) The Corporation shall have,

- (a) a head office in The Municipality of Metropolitan Toronto;

(b) a corporate seal upon which its corporate name shall appear;

(c) capacity to sue and be sued in its own name;

(d) capacity to enter into contracts, including contracts of employment, in its own name; and

(e) all powers incidental or conducive to the attainment of the purpose and objects of the Corporation set out in subsection 3.

(8) The Board may make by-laws regulating its proceedings By-laws and generally for the conduct and management of the affairs of the Corporation.

(9) The Board shall manage or supervise the management Management of the business and affairs of the Corporation.

(10) The Metropolitan Council may by by-law establish By-laws general policies to be followed by the Corporation in the operation, management and maintenance of Exhibition Stadium.

(11) Except for the purposes of *The Ontario Municipal Employees Retirement System Act*, the Board shall be deemed Board deemed not local board R.S.O. 1970, c. 324 not to be a local board of the Metropolitan Corporation.

(12) The accounts and transactions of the Corporation Audit shall be audited by the auditor for the Metropolitan Corporation.

(13) The Metropolitan Corporation shall be entitled to Surplus or deficit receive any surplus resulting from the operations of the Corporation and shall be responsible for any deficit incurred by the Corporation.

(14) The Corporation may borrow money for its purposes Borrowing powers with the prior approval of the Metropolitan Council.

(15) The Metropolitan Corporation may enter into one or Agreements more agreements with the Corporation providing for the management and control of Exhibition Stadium by the Corporation on such terms and conditions as the Metropolitan Council may consider proper.

(16) The occupation, management and control of Exhi- Taxation bition Stadium by the Corporation under an agreement under subsection 15 shall be deemed, for the purposes of paragraph 9 of section 3 of *The Assessment Act*, to be R.S.O. 1970, c. 32

occupation, management and control by the Metropolitan Corporation of lands used for the purposes set out in subsection 3 of section 207 of this Act.

Stadia

207*b*. The Metropolitan Corporation may acquire, erect, alter, maintain, operate and manage stadia, and may charge fees in connection therewith.

s. 214 (15),
amended

5. Subsection 15 of section 214 of the said Act is amended by striking out "one-half of 1 per cent for each month or fraction thereof that the payment is overdue" in the third and fourth lines and inserting in lieu thereof "12 per cent per annum or such lower rate as the Metropolitan Council determines, from the date payment is due until it is made".

s. 223 (18),
amended

- 6.—(1) Subsection 18 of section 223 of the said Act is amended by adding "or" at the end of clause *c* and by adding thereto the following clause:

(*d*) subject to the prior approval of the Lieutenant Governor in Council, in a currency other than that of Canada, the United States of America, or Great Britain.

s. 223 (19),
amended

- (2) Subsection 19 of the said section 223 is amended by inserting after "Britain" in the third line "or in any currency other than that of Canada".

s. 223 (20),
amended

- (3) Subsection 20 of the said section 223 is amended by striking out "3½" in the third line and inserting in lieu thereof "5".

s. 223 (30),
amended

- (4) Subsection 30 of the said section 223 is amended by adding thereto the following clauses:

(*e*) in securities issued by the United States of America;

(*f*) in such other securities as are authorized by the Lieutenant Governor in Council.

s. 223 (40),
re-enacted

- (5) Subsection 40 of the said section 223 is repealed and the following substituted therefor:

Surplus

(40) When, after the debentures for which any sinking fund was provided have been paid off or fully provided for, there is a surplus in a sinking fund account, the sinking fund committee shall,

(*a*) use the surplus to increase the amount at the credit of another sinking fund account; or

SECTION 5. The amendment increases the maximum penalty the Metropolitan Corporation may charge an area municipality for late payment of the metropolitan levy from one-half of 1 per cent per month to 12 per cent per annum.

SECTION 6.—Subsections 1, 2, 3 and 4. The effect of these amendments is to permit debentures issued by the Metropolitan Corporation to be made payable in a currency other than that of Canada, the United States or Great Britain; in addition, the maximum interest rate to be applied in connection with sinking fund debentures is increased from $3\frac{1}{2}$ to 5 per cent per annum.

Subsection 5. The re-enactment clarifies the manner of determining when there is a surplus in a sinking fund account and the types of expenditure to which such surplus may be put.

SECTION 7. Debenture Registry Books may be maintained outside Canada in respect of debentures payable in a foreign currency.

(b) authorize the withdrawal of the surplus from the consolidated bank accounts, and the surplus shall be used for one or more of the following purposes:

- (i) to retire unmatured debentures of the Metropolitan Corporation or of an area municipality,
- (ii) to reduce the next annual levy on account of principal and interest payable with respect to debentures of the Metropolitan Corporation or of an area municipality,
- (iii) to reduce the amount of debentures to be issued for other capital expenditures for which the issue of debentures has been approved by the Municipal Board,
- (iv) to defray the cost of other capital expenditures in lieu of the issue of debentures therefor,

and the surplus shall be used under either clause *a* or *b* for the purposes of the Metropolitan Council, the council of an area municipality, The Metropolitan Toronto School Board for public schools, The Metropolitan Toronto School Board for secondary schools, a board of education for public schools, a board of education for secondary schools, the Toronto Transit Commission, a hydro-electric system and the metropolitan waterworks in the proportion that the amount of the contribution for the purposes of each bears to the total contributions to the sinking fund account in connection with which the surplus arose.

7. Section 231 of the said Act is amended by adding thereto the following subsection: s. 231,
amended

(4) Where debentures are payable in a currency other than that of Canada, the Metropolitan Council may provide that the Debenture Registry Book of the Metropolitan Corporation in respect of such debentures be maintained outside Canada by a person other than the treasurer and may make such other provisions for the registration and transfer of such debentures as the Metropolitan Council considers appropriate. When
Debenture
Registry
Book may
be
maintained
outside
Canada

8. This Act comes into force on the day it receives Royal Assent. Commence-
ment

9. This Act may be cited as *The Municipality of Metropolitan Toronto Amendment Act, 1975*. Short title

An Act to amend
The Municipality of Metropolitan
Toronto Act

1st Reading

May 5th, 1975

2nd Reading

3rd Reading

THE HON. W. D. McKEOUGH
Treasurer of Ontario and
Minister of Economics and
Intergovernmental Affairs

(Government Bill)

BILL 68

5TH SESSION, 29TH LEGISLATURE, ONTARIO
24 ELIZABETH II, 1975

An Act to amend The Municipality of Metropolitan Toronto Act

THE HON. W. D. McKEOUGH
Treasurer of Ontario and Minister of Economics
and Intergovernmental Affairs

TORONTO

PRINTED BY J. C. THATCHER, QUEEN'S PRINTER FOR ONTARIO

An Act to amend The Municipality of Metropolitan Toronto Act

HER MAJESTY, by and with the advice and consent of the Legislative Assembly of the Province of Ontario, enacts as follows:

1. Subsection 2 of section 43 of *The Municipality of Metropolitan Toronto Act*, being chapter 295 of the Revised Statutes of Ontario, 1970, is amended by striking out "not exceeding one-half of 1 per cent for each month or fraction thereof" in the fifth and sixth lines and inserting in lieu thereof "of 12 per cent per annum, or such lower rate as the Metropolitan Council determines". s. 43 (2),
amended
2. Subsection 2 of section 96 of the said Act, as re-enacted by the Statutes of Ontario, 1974, chapter 42, section 6, is amended by striking out "twenty-one" in the third line and inserting in lieu thereof "sixty". s. 96 (2),
amended
3. Subsection 2 of section 109 of the said Act is amended by striking out "buses owned and operated by" in the fifth line and inserting in lieu thereof "horse-drawn vehicles used for the purpose of providing sightseeing tours, buses owned and operated by or operated pursuant to a contract with". s. 109 (2),
amended
4. The said Act is amended by adding thereto the following sections: ss. 207a, 207b,
enacted

207a.—(1) In this section,

Interpre-
tation

- (a) "Board" means the Board of Management of the Corporation;
- (b) "Corporation" means the Exhibition Stadium Corporation;
- (c) "Exhibition Stadium" means the land and buildings in Exhibition Park known as the Canadian National Exhibition Stadium in The Municipality

of Metropolitan Toronto used for athletic contests, sporting events and public entertainments.

R.S.O. 1970,
c. 89, not
to apply

(2) *The Corporations Act* does not apply to the Corporation.

Corporation
established

(3) There is hereby established a corporation without share capital under the name of the "Exhibition Stadium Corporation" having as its purpose and objects, the operation, management and maintenance of the Exhibition Stadium as a stadium for the holding of athletic contests, sporting events, public entertainments and meetings.

Board of
Management

(4) There shall be a Board of Management of the Corporation consisting of seven members and composed of,

- (a) three members appointed by the Canadian National Exhibition Association from among its membership;
- (b) two members appointed by the Lieutenant Governor in Council;
- (c) the Metropolitan Chairman or his delegate who shall be a member of the Metropolitan Council; and
- (d) one member appointed by the Metropolitan Council, who shall be a member of the Metropolitan Council.

Term of
office

(5) The members of the Board to be appointed under clauses *a* and *b* of subsection 4 shall be appointed for a term of office not exceeding three years, and the member of the Board to be appointed under clause *d* of subsection 4 shall be appointed for a term of office not exceeding his term of office in the Metropolitan Council, provided that such members shall be eligible for reappointment and provided that a member of the Board may at any time be removed from office before the expiration of his term by the person or body responsible under subsection 4 for his appointment, and such vacancy, or a vacancy resulting from death or resignation, may be filled by such person or body for the remainder of the unexpired term.

Chairman,
vice-
chairman
and quorum

(6) The Board shall elect a chairman from among its members appointed by the Canadian National Exhibition Association and may elect a vice-chairman, and a majority of the members of the Board constitutes a quorum for the transaction of business at meetings of the Board.

Powers
of
Corporation

(7) The Corporation shall have,

- (a) a head office in The Municipality of Metropolitan Toronto;

(b) a corporate seal upon which its corporate name shall appear;

(c) capacity to sue and be sued in its own name;

(d) capacity to enter into contracts, including contracts of employment, in its own name; and

(e) all powers incidental or conducive to the attainment of the purpose and objects of the Corporation set out in subsection 3.

(8) The Board may make by-laws regulating its proceedings and generally for the conduct and management of the affairs of the Corporation. By-laws

(9) The Board shall manage or supervise the management of the business and affairs of the Corporation. Management

(10) The Metropolitan Council may by by-law establish general policies to be followed by the Corporation in the operation, management and maintenance of Exhibition Stadium. By-laws

(11) Except for the purposes of *The Ontario Municipal Employees Retirement System Act*, the Board shall be deemed not to be a local board of the Metropolitan Corporation. Board deemed not local board
R.S.O. 1970, c. 324

(12) The accounts and transactions of the Corporation shall be audited by the auditor for the Metropolitan Corporation. Audit

(13) The Metropolitan Corporation shall be entitled to receive any surplus resulting from the operations of the Corporation and shall be responsible for any deficit incurred by the Corporation. Surplus or deficit

(14) The Corporation may borrow money for its purposes with the prior approval of the Metropolitan Council. Borrowing powers

(15) The Metropolitan Corporation may enter into one or more agreements with the Corporation providing for the management and control of Exhibition Stadium by the Corporation on such terms and conditions as the Metropolitan Council may consider proper. Agreements

(16) The occupation, management and control of Exhibition Stadium by the Corporation under an agreement under subsection 15 shall be deemed, for the purposes of paragraph 9 of section 3 of *The Assessment Act*, to be Taxation
R.S.O. 1970, c. 32

occupation, management and control by the Metropolitan Corporation of lands used for the purposes set out in subsection 3 of section 207 of this Act.

Stadia

207*b*. The Metropolitan Corporation may acquire, erect, alter, maintain, operate and manage stadia, and may charge fees in connection therewith.

s. 214 (15),
amended

5. Subsection 15 of section 214 of the said Act is amended by striking out "one-half of 1 per cent for each month or fraction thereof that the payment is overdue" in the third and fourth lines and inserting in lieu thereof "12 per cent per annum or such lower rate as the Metropolitan Council determines, from the date payment is due until it is made".

s. 223 (18),
amended

- 6.—(1) Subsection 18 of section 223 of the said Act is amended by adding "or" at the end of clause *c* and by adding thereto the following clause:

(*d*) subject to the prior approval of the Lieutenant Governor in Council, in a currency other than that of Canada, the United States of America, or Great Britain.

s. 223 (19),
amended

- (2) Subsection 19 of the said section 223 is amended by inserting after "Britain" in the third line "or in any currency other than that of Canada".

s. 223 (20),
amended

- (3) Subsection 20 of the said section 223 is amended by striking out " $3\frac{1}{2}$ " in the third line and inserting in lieu thereof "5".

s. 223 (30),
amended

- (4) Subsection 30 of the said section 223 is amended by adding thereto the following clauses:

(*e*) in securities issued by the United States of America;

(*f*) in such other securities as are authorized by the Lieutenant Governor in Council.

s. 223 (40),
re-enacted

- (5) Subsection 40 of the said section 223 is repealed and the following substituted therefor:

Surplus

(40) When, after the debentures for which any sinking fund was provided have been paid off or fully provided for, there is a surplus in a sinking fund account, the sinking fund committee shall,

(*a*) use the surplus to increase the amount at the credit of another sinking fund account; or

(b) authorize the withdrawal of the surplus from the consolidated bank accounts, and the surplus shall be used for one or more of the following purposes:

- (i) to retire unmatured debentures of the Metropolitan Corporation or of an area municipality,
- (ii) to reduce the next annual levy on account of principal and interest payable with respect to debentures of the Metropolitan Corporation or of an area municipality,
- (iii) to reduce the amount of debentures to be issued for other capital expenditures for which the issue of debentures has been approved by the Municipal Board,
- (iv) to defray the cost of other capital expenditures in lieu of the issue of debentures therefor,

and the surplus shall be used under either clause *a* or *b* for the purposes of the Metropolitan Council, the council of an area municipality, The Metropolitan Toronto School Board for public schools, The Metropolitan Toronto School Board for secondary schools, a board of education for public schools, a board of education for secondary schools, the Toronto Transit Commission, a hydro-electric system and the metropolitan waterworks in the proportion that the amount of the contribution for the purposes of each bears to the total contributions to the sinking fund account in connection with which the surplus arose.

7. Section 231 of the said Act is amended by adding thereto the following subsection: s. 231,
amended

(4) Where debentures are payable in a currency other than that of Canada, the Metropolitan Council may provide that the Debenture Registry Book of the Metropolitan Corporation in respect of such debentures be maintained outside Canada by a person other than the treasurer and may make such other provisions for the registration and transfer of such debentures as the Metropolitan Council considers appropriate. When
Debenture
Registry
Book may
be
maintained
outside
Canada

8. This Act comes into force on the day it receives Royal Assent. Commence-
ment

9. This Act may be cited as *The Municipality of Metropolitan Toronto Amendment Act, 1975*. Short title

An Act to amend
The Municipality of Metropolitan
Toronto Act

1st Reading

May 5th, 1975

2nd Reading

May 13th, 1975

3rd Reading

May 13th, 1975

THE HON. W. D. McKEOUGH
Treasurer of Ontario and
Minister of Economics and
Intergovernmental Affairs

5TH SESSION, 29TH LEGISLATURE, ONTARIO
24 ELIZABETH II, 1975

An Act to amend The Municipal Elections Act, 1972

THE HON. W. D. McKEOUGH
Treasurer of Ontario and Minister of Economics
and Intergovernmental Affairs

EXPLANATORY NOTE

Subsection 1 of the re-enacted section 17 empowers the Minister to prescribe forms in both the English and French languages; subsection 2 authorizes the Minister, in the circumstances indicated, to declare the seats of all members of a council or local board to be vacant and to require a new election; subsection 3 provides for the interim administration of a municipality or local board in the event that for any reason the seats of a majority of its members are declared vacant.

BILL 69

1975

An Act to amend The Municipal Elections Act, 1972

HER MAJESTY, by and with the advice and consent of the Legislative Assembly of the Province of Ontario, enacts as follows:

1. Section 117 of *The Municipal Elections Act, 1972*, being s. 117, re-enacted chapter 95, as re-enacted by the Statutes of Ontario, 1974, chapter 32, section 41, is repealed and the following substituted therefor:

117.—(1) The Minister may by order prescribe the forms Forms required for the purposes of this Act, which forms may be in both the English and French languages.

(2) In the event that the council of any municipality or a local board thereof is unable, for a period of two months, to hold a meeting of the council or of the local board because of failure to obtain a quorum, the Minister may by order declare the seats of the members of the council or local board to be vacant and a new election shall be held in accordance with the provisions of this Act. Minister may declare seats vacant

(3) In the event that the seats of a majority of the members of a council or of a local board are for any reason declared vacant, the Minister may by order provide for the fulfilling of the duties and obligations of the council or local board until such time as a new election is held in accordance with this Act and the members so elected have taken office. Interim administration

2. This Act comes into force on the day it receives Royal Assent. Commencement
3. This Act may be cited as *The Municipal Elections Amendment Act, 1975*. Short title

An Act to amend
The Municipal Elections Act, 1972

1st Reading

May 5th, 1975

2nd Reading

3rd Reading

THE HON. W. D. McKEOUGH
Treasurer of Ontario and
Minister of Economics and
Intergovernmental Affairs

(Government Bill)

BILL 69

5TH SESSION, 29TH LEGISLATURE, ONTARIO
24 ELIZABETH II, 1975

An Act to amend The Municipal Elections Act, 1972

THE HON. W. D. McKEOUGH
Treasurer of Ontario and Minister of Economics
and Intergovernmental Affairs

An Act to amend The Municipal Elections Act, 1972

HER MAJESTY, by and with the advice and consent of the Legislative Assembly of the Province of Ontario, enacts as follows:

1. Section 117 of *The Municipal Elections Act, 1972*, being s. 117, re-enacted chapter 95, as re-enacted by the Statutes of Ontario, 1974, chapter 32, section 41, is repealed and the following substituted therefor:

117.—(1) The Minister may by order prescribe the forms Forms required for the purposes of this Act, which forms may be in both the English and French languages.

(2) In the event that the council of any municipality or a local board thereof is unable, for a period of two months, to hold a meeting of the council or of the local board because of failure to obtain a quorum, the Minister may by order declare the seats of the members of the council or local board to be vacant and a new election shall be held in accordance with the provisions of this Act. Minister may declare seats vacant

(3) In the event that the seats of a majority of the members of a council or of a local board are for any reason declared vacant, the Minister may by order provide for the fulfilling of the duties and obligations of the council or local board until such time as a new election is held in accordance with this Act and the members so elected have taken office. Interim administration

2. This Act comes into force on the day it receives Royal Assent. Commencement
3. This Act may be cited as *The Municipal Elections Amendment Act, 1975*. Short title

An Act to amend
The Municipal Elections Act, 1972

1st Reading

May 5th, 1975

2nd Reading

May 13th, 1975

3rd Reading

May 13th, 1975

THE HON. W. D. McKEOUGH
Treasurer of Ontario and
Minister of Economics and
Intergovernmental Affairs

5TH SESSION, 29TH LEGISLATURE, ONTARIO
24 ELIZABETH II, 1975

An Act to amend The Consumer Protection Act

MR. ROY

TORONTO

PRINTED BY J. C. THATCHER, QUEEN'S PRINTER FOR ONTARIO

EXPLANATORY NOTE

The purpose of the Bill is to require lenders to answer written requests by borrowers about incorrect accounts within thirty days. A ninety day period would then follow during which the lender could not request payment until the amount owing on the account was settled. Should the creditor fail to correct or explain the error, the amount of the bill would be forfeited if less than \$50. The Bill would also allow the borrower to bring a suit for damages where the damages were at least \$100.

An Act to amend The Consumer Protection Act

HER MAJESTY, by and with the advice and consent of the Legislative Assembly of the Province of Ontario, enacts as follows:

1. *The Consumer Protection Act*, being chapter 82 of the Revised Statutes of Ontario, 1970, is amended by adding thereto the following section:

s. 37a,
enacted

37a.—(1) Where a borrower requests in writing information concerning his account from a lender who has extended variable credit to him, the lender shall reply to the inquiry within thirty days.

Borrower
may request
information

(2) Where a request is made to a lender under subsection 1, and the request is with respect to an incorrect billing, the lender shall not request any payment from the borrower until it is determined what the correct amount of the bill should be.

No payment
until amount
settled

(3) Where a lender fails to explain the reason for an incorrect billing or fails to correct a billing that is in error within ninety days of the request referred to in subsection 1, the amount owing to the lender by the borrower shall be forfeited provided that the amount of the bill is \$50 or less.

Amount
forfeited

(4) Where a lender fails to explain the reason for an incorrect billing or fails to correct a billing that is in error within ninety days of the request referred to in subsection 1, and the amount of the bill is greater than \$50, the borrower is entitled to bring suit for damages in a court of competent jurisdiction where the damages are not less than \$100.

Damages

2. This Act comes into force on the day it receives Royal Assent.
3. This Act may be cited as *The Consumer Protection Amendment Act, 1975*.

Commence-
ment

Short title

An Act to amend
The Consumer Protection Act

1st Reading

May 6th, 1975

2nd Reading

3rd Reading

MR. ROY

(Private Member's Bill)

5TH SESSION, 29TH LEGISLATURE, ONTARIO
24 ELIZABETH II, 1975

**An Act to provide
Political Rights for Public Servants**

MR. CASSIDY

TORONTO

PRINTED BY J. C. THATCHER, QUEEN'S PRINTER FOR ONTARIO

EXPLANATORY NOTE

This Bill is designed to give public servants the same political rights that all other citizens enjoy in Ontario. It covers civil servants, Crown employees, employees of community colleges, and people working for agencies such as Ontario Hydro, the Workmen's Compensation Board, and the Ontario Northland Transportation Commission, but excludes Deputy Ministers, officers of similar status in Crown agencies, and other senior policy-making officials.

The deleted sections of *The Public Service Act* make it illegal for a public servant to canvass on behalf of a candidate in an election, to solicit funds for a political party or a candidate at any time, or to speak or to write a letter to the editor on "any matter that forms part of the platform of a provincial or federal political party". A public servant may only become a candidate for election after the writs are issued and is effectively barred from being a candidate if a nomination is held before that date. The candidate must take leave of absence without pay for a period of 4 to 5 weeks.

The Bill provides that public servants will be able to write, speak, contribute, solicit funds, work, join, hold office, and vote on behalf of, in, for, or to a political party or candidate in a federal or provincial election and protects public servants from punitive action by their superiors or from being forced to carry out partisan duties as a condition of their employment.

The deleted section of *The Crown Employees Collective Bargaining Act, 1972* contains the sections which are re-enacted in the Bill and also prohibits an employee organization from receiving money from public employees who are its members for activities carried on by, or on behalf of a political party, from paying out money to, or on behalf of the political party, or from otherwise supporting a political party. The penalty for these activities is loss of bargaining rights. The Bill will give an employee organization the rights enjoyed by other trade unions, prevents it from compelling an employee to engage in political activity, and provides for a wider range of penalties.

An Act to provide Political Rights for Public Servants

HER MAJESTY, by and with the advice and consent of the Legislative Assembly of the Province of Ontario, enacts as follows:

1. In this Act,

Interpre-
tation

- (a) "agency" means any board, agency, or commission of the Crown in right of Ontario;
- (b) "public servant" means a person appointed in the service of the Crown by the Lieutenant Governor in Council, by the Civil Service Commission, or by a Minister, or a person employed in the service of the Crown or any agency of the Crown, but does not include any Deputy Minister or senior employee of the Crown, or an agency, with management or policy responsibilities;
- (c) "tribunal" means the Ontario Public Service Labour Relations Tribunal as defined in section 1 of *The Crown Employees Collective Bargaining Act, 1972*, c. 67.

2.—(1) Every public servant shall be entitled to exercise the following political rights,

Political
rights of
public
servants

- (a) the right to vote;
- (b) the right to actively support a political party or a candidate for provincial or federal office;
- (c) the right to contribute to a political party at any time;
- (d) the right to solicit funds for a candidate or for a political party;

- (e) the right to be a member of a political party and to hold office in such party; and
- (f) the right to express views on matters that form part of the platform of a provincial or federal political party.

Conditions

(2) The rights provided in subsection 1 are subject to the condition that,

- (a) the employee does not engage in political activities during working hours;
- (b) the employee does not associate his position in the service of the Crown with any political activity;
- (c) the employee does not speak in public or express views in writing for distribution to the public on any matter with which he is directly engaged in his employment with the Crown;
- (d) the employee respects his oath of office and secrecy, as provided under section 10 of *The Public Service Act*.

R.S.O. 1970,
c. 386

Prohibition

3. No public servant shall be required by his employer to engage in work or activity of a partisan nature for a candidate or a political party either during or outside working hours and, notwithstanding the provisions of any other Act, refusal to perform such activities shall be a justifiable defence against any dismissal, transfer, or other disciplinary action.

Public
servant as
candidate

4. A public servant who proposes to become a candidate in a provincial or federal election shall inform his Minister or the chief officer of his agency, and,

- (a) may apply for leave of absence without pay at any time after he is duly nominated by his party as its candidate;
- (b) shall take leave of absence commencing on the day on which the writ for the election is issued or on the day on which he is nominated by his party, whichever date comes later; and
- (c) shall be granted leave with pay commencing on the day provided by statute for the nomination of candidates and ending on polling day,

and every such application shall be granted.

5. Where a public servant who is a candidate in a ^{Resignation} provincial or federal election is elected, he shall forthwith resign his position as a public servant.

6. Where a public servant who has resigned under ^{Reappointment} section 5,

- (a) ceases to be an elected political representative within five years of his resignation; and
- (b) applies for reappointment to his former position or to another position in the service of the Crown for which he is qualified, within three months of ceasing to be an elected political representative,

he shall be reappointed to the position upon its next becoming vacant.

7. Where a public servant has been granted leave of ^{Continuous} absence under section 4 and was not elected, or resigned his position under section 5 and was reappointed under section 6, the period of the leave of absence or resignation shall be computed in determining the length of his service for any purpose, and his service shall be deemed to be continuous for all purposes.

8. Every public servant who knowingly fails to comply ^{Disciplinary} with the requirements of this Act may be disciplined under ^{action} the Act or regulation governing his employer.

9.—(1) In this section, “employee organization” means ^{Interpre-} an organization of employees formed for the purpose of ^{tation} regulating relations between the Crown in right of Ontario and public servants under this Act.

(2) No employee organization shall, ^{Prohibition}

- (a) require as a condition of membership therein the payment by any of its members who are public servants of any money for activities carried on by or on behalf of any political party or candidate;
- (b) require its members who are public servants otherwise to support or oppose any political party;
- (c) discriminate against any employee because of age, sex, race, national origin, colour or religion.

Tribunal

(3) Where a public servant or the Crown in right of Ontario considers that an employee organization is in violation of section 9, a complaint may be lodged with the tribunal which shall conduct a public hearing to consider the matter and which may,

- (a) dismiss the complaint; or
- (b) withdraw bargaining rights from the employee organization involved; or
- (c) levy a fine; or
- (d) take such other disciplinary action as it considers appropriate.

R.S.O. 1970,
c. 386,
ss. 12-16,
repealed

10. Sections 12 to 16 of *The Public Service Act*, being chapter 386 of the Revised Statutes of Ontario, 1970, are repealed.

1972, c. 67,
s. 1 (1) (h),
repealed

11. Clause *h* of subsection 1 of section 1 of *The Crown Employees Collective Bargaining Act*, 1972, being chapter 67, is repealed.

Commence-
ment

12. This Act comes into force on the day it receives Royal Assent.

Short title

13. This Act may be cited as *The Public Servants Political Rights Act*, 1975.

An Act to provide
Political Rights for Public Servants

1st Reading

May 8th, 1975

2nd Reading

3rd Reading

MR. CASSIDY

(Private Member's Bill)

5TH SESSION, 29TH LEGISLATURE, ONTARIO
24 ELIZABETH II, 1975

**An Act to prevent post retirement integration of Insurance
Moneys and Pension Benefits with increases in
Government social security plans**

MR. LAUGHREN

EXPLANATORY NOTE

The purpose of the Bill is to prevent the reduction of moneys paid out under an insurance or pension plan because of a general increase or cost of living increase in a government social security plan with which it may be integrated.

**An Act to prevent post retirement
integration of Insurance Moneys and
Pension Benefits with increases in
Government social security plans**

HER MAJESTY, by and with the advice and consent of the Legislative Assembly of the Province of Ontario, enacts as follows:

1. In this Act,

Interpre-
tation

(a) "government social security plan" means,

- | | |
|--|------------------------|
| (i) the <i>Canada Pension Plan</i> (Canada), | R.S.C. 1970,
c. C-5 |
| (ii) the <i>Old Age Security Act</i> (Canada), | R.S.C. 1970,
c. O-6 |
| (iii) the <i>Department of Veterans Affairs Act</i> (Canada), | R.S.C. 1970,
c. V-1 |
| (iv) <i>The Ontario Guaranteed Annual Income Act, 1974, or</i> | 1974, c. 58 |
| (v) <i>The Family Benefits Act</i> ; | R.S.O. 1970,
c. 157 |

- (b) "insurance money" has the same meaning as defined in paragraph 32 of section 1 of *The Insurance Act*;
- R.S.O. 1970,
c. 224

- (c) "pension benefit" has the same meaning as defined in clause g of subsection 1 of section 1 of *The Pension Benefits Act*.
- R.S.O. 1970,
c. 342

2. Notwithstanding the provisions of any other Act, no Prohibition
insurance money or pension benefit shall be reduced by reason of an increase in any payment made under a government social security plan.

Commence-
ment

3. This Act comes into force on the day it receives Royal Assent.

Short title

4. This Act may be cited as *The Post Retirement Integration of Insurance Moneys and Pension Benefits Prevention Act, 1975*.

An Act to prevent post
retirement integration of Insurance
Moneys and Pension Benefits with
increases in Government social
security plans

1st Reading

May 8th, 1975

2nd Reading

3rd Reading

MR. LAUGHREN

(Private Member's Bill)

5TH SESSION, 29TH LEGISLATURE, ONTARIO
24 ELIZABETH II, 1975

**An Act to amend
The Regional Municipality of Sudbury Act, 1972**

MR. GERMA

EXPLANATORY NOTE

Under *The Dog Licensing and Live Stock and Poultry Protection Act*, the maximum fine for allowing a dog to run at large contrary to a by-law is \$50 with no minimum. Subsection 1 of the new section 141a provides for a minimum of \$20 and a maximum of \$100.

The Dog Licensing and Live Stock and Poultry Protection Act does not confer any right of entry on premises. Subsection 2 of the new section 141a provides such right for animal control officers and police officers.

The procedure for the voluntary payment of penalties out of court is limited by *The Dog Licensing and Live Stock and Poultry Protection Act* to the offence of allowing a dog to run at large. Subsection 3 of the new section 141a will permit the procedure to be made applicable to any contravention of a by-law.

Particulars of the number of dogs for which a person is liable to be taxed are required by the new section 141b to be set down in the assessment roll prepared for the City of Sudbury.

An Act to amend The Regional Municipality of Sudbury Act, 1972

HER MAJESTY, by and with the advice and consent of the Legislative Assembly of the Province of Ontario, enacts as follows:

1. *The Regional Municipality of Sudbury Act, 1972*, being chapter 104, is amended by adding thereto the following sections: ss. 141a, 141b,
enacted

141a.—(1) Notwithstanding subsection 3 of section 7 and section 8 of *The Dog Licensing and Live Stock and Poultry Protection Act*, a by-law passed by The Corporation of the City of Sudbury under Part I of that Act may impose a fine of not less than \$20 and not more than \$100 for the offence of allowing a dog to run at large. Penalty
R.S.O. 1970,
c. 133

(2) Notwithstanding subsection 4 of section 7 of *The Dog Licensing and Live Stock and Poultry Protection Act*, an animal control officer appointed by the council of The Corporation of the City of Sudbury and a police officer may enter any premises in the City of Sudbury, except a dwelling, in order to seize a dog or dogs running at large contrary to a by-law passed under Part I of that Act, provided the officer proceeds with caution and does as little damage as possible in carrying out his duties. Authority
to enter
premises

(3) Notwithstanding subsection 5 of section 7 of *The Dog Licensing and Live Stock and Poultry Protection Act*, a by-law passed by the council of The Corporation of the City of Sudbury under Part I of that Act may provide for the voluntary payment out of court of penalties in cases where it is alleged that any of the provisions of the by-law have been contravened and, if payment is not made in accordance with the procedure, the fine is recoverable under *The Summary Convictions Act*. Payment
out of
court

R.S.O. 1970,
c. 450

141b. In addition to the particulars required to be set down in an assessment roll under subsection 1 of section 17 of *The Assessment Act*, the assessment roll prepared for the Particulars
in
assessment
roll
R.S.O. 1970,
c. 32

City of Sudbury shall set down opposite the name of each person assessed the number of male dogs, female dogs and spayed female dogs, respectively, for which the person is liable to be taxed.

Commence-
ment

2. This Act comes into force on the day it receives Royal Assent

Short title

3. This Act may be cited as *The Regional Municipality of Sudbury Amendment Act, 1975*.

An Act to amend
The Regional Municipality of
Sudbury Act, 1972

1st Reading

May 8th, 1975

2nd Reading

3rd Reading

MR. GERMA

(Private Member's Bill)

5TH SESSION, 29TH LEGISLATURE, ONTARIO
24 ELIZABETH II, 1975

The Royal Canadian Legion Act, 1975

THE HON. E. A. WINKLER
Chairman, Management Board of Cabinet

EXPLANATORY NOTE

The Bill provides certain procedures in the way of notice and the proportion of the vote required when real property in Ontario of The Royal Canadian Legion or of one of its duly constituted branches is proposed to be sold, mortgaged, leased or otherwise alienated.

BILL 74

1975

The Royal Canadian Legion Act, 1975

HER MAJESTY, by and with the advice and consent of the Legislative Assembly of the Province of Ontario, enacts as follows:

1. Notwithstanding any general or special Act, real property in Ontario held by the Ontario Command of The Royal Canadian Legion, those duly constituted branches of the Manitoba and Northwestern Ontario Provincial Command operating within Ontario, the Dominion Command and every duly constituted branch of The Royal Canadian Legion within Ontario shall not be sold, leased, mortgaged, pledged, hypothecated or otherwise alienated, in any manner whatsoever unless it is so resolved by a two-thirds majority vote of the members of the Executive Committee of the Command or of the members of the branch, as the case may be, in good standing present and voting, at a special or regular general meeting of the Executive Committee of the Command or the members of the branch, for which notice of the resolution has been given to all members of the Executive Committee of the Command or of the branch in good standing, by mailing a notice to each member at his last known address, not less than ten days prior to such meeting.

Power of
Command
and
branches
to sell,
etc.,
property

2. This Act comes into force on the day it receives Royal Assent.

Commence-
ment

3. This Act may be cited as *The Royal Canadian Legion Act, 1975*.

Short title

The Royal Canadian
Legion Act, 1975

1st Reading

May 9th, 1975

2nd Reading

3rd Reading

THE HON. E. A. WINKLER
Chairman,
Management Board of Cabinet

(Government Bill)

BILL 74

5TH SESSION, 29TH LEGISLATURE, ONTARIO
24 ELIZABETH II, 1975

The Royal Canadian Legion Act, 1975

THE HON. E. A. WINKLER
Chairman, Management Board of Cabinet

BILL 74

1975

The Royal Canadian Legion Act, 1975

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Power of
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and
branches
to sell,
etc.,
property

2. This Act comes into force on the day it receives Royal Assent.

Commence-
ment

3. This Act may be cited as *The Royal Canadian Legion Act, 1975*.

Short title

The Royal Canadian
Legion Act, 1975

1st Reading

May 9th, 1975

2nd Reading

May 13th, 1975

3rd Reading

May 13th, 1975

THE HON. E. A. WINKLER
Chairman,
Management Board of Cabinet

5TH SESSION, 29TH LEGISLATURE, ONTARIO
24 ELIZABETH II, 1975

**An Act to reform certain Laws founded
upon Marital or Family Relationships**

THE HON. J. T. CLEMENT
Attorney General

TORONTO

PRINTED BY J. C. THATCHER, QUEEN'S PRINTER FOR ONTARIO

EXPLANATORY NOTES

The Bill removes remaining disabilities of a married woman under the common law and establishes the same law applying to married men and married women equally as if they were unmarried. This includes, among other things, the right to sue each other in tort and recognition of a wife's contribution to her husband's property to ameliorate the result of the recent case of *Murdoch v. Murdoch*.

BILL 75

1975

An Act to reform certain Laws founded upon Marital or Family Relationships

HER MAJESTY, by and with the advice and consent of the Legislative Assembly of the Province of Ontario, enacts as follows:

1.—(1) For all purposes of the law of Ontario, a married man has a legal personality that is independent, separate and distinct from that of his wife and a married woman has a legal personality that is independent, separate and distinct from that of her husband. Unity of
legal
personality
abolished

(2) A married person has and shall be accorded legal capacity for all purposes and in all respects as if such person were an unmarried person. Capacity of
married
person

(3) Without limiting the generality of subsections 1 and 2, *Idem*

- (a) each of the parties to a marriage has the like right of action in tort against the other as if they were not married;
- (b) a married woman is capable of acting as guardian *ad litem* or next friend as if she were an unmarried woman;
- (c) except as agreed between them, where a husband or wife contributes work, money or money's worth in respect of the acquisition, management, maintenance, operation or improvement of a property in which the other has or had a property interest, the husband or wife shall not be disentitled to any right to compensation or other interest flowing from such contribution by reason only of the relationship of husband and wife or that the acts constituting the contribution are those of a reasonable spouse of that sex in the circumstances;

(d) the rule of law applying a presumption of advancement in questions of the ownership of property as between husband and wife is abolished and in place thereof the rule of law applying a presumption of a resulting trust shall be applied in the same manner as if they were not married, except that,

(i) the fact that property is placed or taken in the name of a husband and wife as joint tenants shall be *prima facie* proof that a joint tenancy of the beneficial interest in the property is intended, and

(ii) money on deposit in a bank, trust company, loan corporation or similar institution in the name of both a husband and wife shall be deemed to be in the name of the husband and wife as joint tenants for the purposes of subclause i.

Purpose of
subss. 1 and 2

(4) The purpose of subsections 1 and 2 is to make the same law apply, and apply equally, to married men and married women and to remove any difference therein resulting from any common law rule or doctrine, and subsections 1 and 2 shall be so construed.

Application
of s. 1:
restraint
upon alien-
ation or
anticipation

2.—(1) Section 1 does not apply to interfere with or render inoperative any restriction upon anticipation or alienation attached to the enjoyment of any property by virtue of an instrument executed before this Act comes into force and for the purpose,

(a) a provision contained in an instrument made in exercise of a special power of appointment shall be deemed to be contained in that instrument only and not in the instrument by which the power was created; and

(b) the will of a testator shall be deemed to be an instrument executed on the day of his death.

Idem:
domicile

(2) Section 1 does not apply to affect the determination of domicile for any purpose.

Idem:
agency of
necessity

(3) Section 1 does not apply to affect the right of a wife to pledge her husband's credit for necessities.

Actions
between
parent and
child

3. No person shall be disentitled from bringing an action or other proceeding against another for the reason only that they stand in the relationship of parent and child.

SECTION 2.—Subsection 1. The special rule permitting restraint on alienation of the property of a married woman is abolished by section 1 and this provision preserves the rule in respect of agreements previously entered into.

Subsection 2. The rule that the domicile of the husband is the domicile of the marriage is preserved.

Subsection 3. The right of a wife to pledge her husband's credit for necessities is preserved.

SECTIONS 3 and 4. Actions for prenatal injuries and suits between parent and child are made possible as recommended by Part I of the Ontario Law Reform Commission's Report on Family Law dealing with torts.

SECTION 5. The provision repealed excludes the liability of an insurer for injury to a spouse or child of the insured who is a passenger. The exclusion is based upon the incapacity of married persons to sue each other in tort which is removed.

SECTION 6. The Bill enables the repeal of all *The Married Women's Property Act* except section 12 which provides a procedure for determining disputes as to division of property between husband and wife. The question of the interest of husband and wife in marital property is not dealt with in this Bill.

SECTION 7. The section repealed prevents the recovery by a married person of the part of damages for negligence attributable to the contributory negligence of the married person's spouse. The provision is based upon the incapacity of married persons to sue each other in tort, which incapacity is removed by section 1 (3) (a) of this Bill.

4. No person shall be disentitled from recovering damages in respect of injuries incurred for the reason only that the injuries were incurred before his birth. Recovery for prenatal injuries

5. Subclause i of clause b of section 214 of *The Insurance Act*, being chapter 224 of the Revised Statutes of Ontario, 1970, is repealed. R.S.O. 1970, c. 224, s. 214 (b) (i), repealed

6. Sections 2 to 11 and section 13 of *The Married Women's Property Act*, being chapter 262 of the Revised Statutes of Ontario, 1970, are repealed. R.S.O. 1970, c. 262, ss. 2-11, 13, repealed

7. Subsection 4 of section 2 of *The Negligence Act*, being chapter 296 of the Revised Statutes of Ontario, 1970, is repealed. R.S.O. 1970, c. 296, s. 2 (4), repealed

8. Section 7 does not apply in respect of actions commenced before this Act comes into force. Application of s. 7

9. This Act comes into force on a day to be named by proclamation of the Lieutenant Governor. Commencement

10. This Act may be cited as *The Family Law Reform Act*, 1975. Short title

An Act to reform certain Laws founded
upon Marital or Family Relationships

1st Reading

May 12th, 1975

2nd Reading

3rd Reading

THE HON. J. T. CLEMENT
Attorney General

(Government Bill)

BILL 75

5TH SESSION, 29TH LEGISLATURE, ONTARIO
24 ELIZABETH II, 1975

An Act to reform certain Laws founded upon Marital or Family Relationships

THE HON. J. T. CLEMENT
Attorney General

TORONTO

PRINTED BY J. C. THATCHER, QUEEN'S PRINTER FOR ONTARIO

An Act to reform certain Laws founded upon Marital or Family Relationships

HER MAJESTY, by and with the advice and consent of the Legislative Assembly of the Province of Ontario, enacts as follows:

1.—(1) For all purposes of the law of Ontario, a married man has a legal personality that is independent, separate and distinct from that of his wife and a married woman has a legal personality that is independent, separate and distinct from that of her husband. Unity of
legal
personality
abolished

(2) A married person has and shall be accorded legal capacity for all purposes and in all respects as if such person were an unmarried person. Capacity of
married
person

(3) Without limiting the generality of subsections 1 and 2, *Idem*

- (a) each of the parties to a marriage has the like right of action in tort against the other as if they were not married;
- (b) a married woman is capable of acting as guardian *ad litem* or next friend as if she were an unmarried woman;
- (c) except as agreed between them, where a husband or wife contributes work, money or money's worth in respect of the acquisition, management, maintenance, operation or improvement of a property in which the other has or had a property interest, the husband or wife shall not be disentitled to any right to compensation or other interest flowing from such contribution by reason only of the relationship of husband and wife or that the acts constituting the contribution are those of a reasonable spouse of that sex in the circumstances;

(d) the rule of law applying a presumption of advancement in questions of the ownership of property as between husband and wife is abolished and in place thereof the rule of law applying a presumption of a resulting trust shall be applied in the same manner as if they were not married, except that,

(i) the fact that property is placed or taken in the name of a husband and wife as joint tenants shall be *prima facie* proof that a joint tenancy of the beneficial interest in the property is intended, and

(ii) money on deposit in a bank, trust company, loan corporation or similar institution in the name of both a husband and wife shall be deemed to be in the name of the husband and wife as joint tenants for the purposes of subclause i.

Purpose of
subss. 1 and 2

(4) The purpose of subsections 1 and 2 is to make the same law apply, and apply equally, to married men and married women and to remove any difference therein resulting from any common law rule or doctrine, and subsections 1 and 2 shall be so construed.

Application
of s. 1:
restraint
upon alien-
ation or
anticipation

2.—(1) Section 1 does not apply to interfere with or render inoperative any restriction upon anticipation or alienation attached to the enjoyment of any property by virtue of an instrument executed before this Act comes into force and for the purpose,

(a) a provision contained in an instrument made in exercise of a special power of appointment shall be deemed to be contained in that instrument only and not in the instrument by which the power was created; and

(b) the will of a testator shall be deemed to be an instrument executed on the day of his death.

Idem:
domicile

(2) Section 1 does not apply to affect the determination of domicile for any purpose.

Idem:
agency of
necessity

(3) Section 1 does not apply to affect the right of a wife to pledge her husband's credit for necessities.

Actions
between
parent and
child

3. No person shall be disentitled from bringing an action or other proceeding against another for the reason only that they stand in the relationship of parent and child.

4. No person shall be disentitled from recovering damages in respect of injuries incurred for the reason only that the injuries were incurred before his birth. Recovery for prenatal injuries

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Received of the Honble the Secy to the Govt
of the Madras Presidcy the sum of Rs 1000

for the purchase of the following

the sum of Rs 1000 for the purchase of the following

the sum of Rs 1000 for the purchase of the following

An Act to reform certain Laws founded
upon Marital or Family Relationships

1st Reading

May 12th, 1975

2nd Reading

June 20th, 1975

3rd Reading

June 27th, 1975

THE HON. J. T. CLEMENT
Attorney General

5TH SESSION, 29TH LEGISLATURE, ONTARIO
24 ELIZABETH II, 1975

An Act to amend The Mortgage Brokers Act

THE HON. S. B. HANDLEMAN
Minister of Consumer and Commercial Relations

EXPLANATORY NOTE

The amendment regulates the raising of money by mortgage and the sale of mortgages in Ontario where the real property security is outside Ontario. Prospectuses are required to be filed publicly in the same manner as for the sale of real estate outside Ontario.

BILL 76

1975

An Act to amend The Mortgage Brokers Act

HER MAJESTY, by and with the advice and consent of the Legislative Assembly of the Province of Ontario, enacts as follows:

1. Section 2 of *The Mortgage Brokers Act*, being chapter 278 of the Revised Statutes of Ontario, 1970, is amended by inserting after "Act" in the first line "except sections 11 to 21". s. 2,
amended
2. The said Act is amended by renumbering section 21 as section 10 and by adding thereto the following sections: s. 21,
renumbered,
ss. 11-19,
enacted

11.—(1) In sections 11 to 19,

Interpre-
tation

(a) "mortgage transaction" means the borrowing of money on the security of real property or the assignment of a mortgage for consideration;

(b) "subdivision" means improved or unimproved land divided or proposed to be divided into five or more lots or other units for the purpose of sale or lease and includes land divided or proposed to be divided in condominium units.

(2) Sections 12 to 19 apply to mortgage transactions on the security of lots or units in a subdivision outside Ontario where the mortgagor or assignor is the owner of an interest in five or more such lots or units or has been the owner of such an interest at any time in the preceding five years. Application
of ss. 12 to 19

(3) Sections 12 to 19 do not apply to mortgage transactions in which the mortgagee or assignee is a bank to which the *Bank Act* (Canada) applies on a loan or trust company Idem
R.S.C. 1970,
c. B-1

R.S.O. 1970,
cc. 254, 224

registered under the *Loan and Trust Corporations Act* or an insurance company licensed under the *Insurance Act*.

Mortgage
transactions
where land
outside
Ontario

12.—(1) No person shall enter into or negotiate a mortgage transaction in respect of a lot or unit of land in a subdivision located outside Ontario unless,

- (a) a prospectus containing the prescribed information has been filed with the Registrar and the Registrar has issued a certificate of acceptance;
- (b) he is a registered mortgage broker or the mortgage transaction is negotiated by a registered mortgage broker;
- (c) a copy of the prospectus or such shorter form of the prospectus as the Registrar approves for distribution to the public has been delivered to the prospective lender or assignee;
- (d) the prospective lender or assignee has in writing acknowledged receipt of a copy of a prospectus or shorter form of prospectus and has been afforded an opportunity to read it.

Inspection
of
acknowledg-
ments

(2) Every acknowledgment referred to in subsection 1 shall be retained by the mortgagor, assignor or mortgage broker and be available for inspection by the Registrar for a period of not less than three years.

Rescission

(3) A lender or assignee who has entered into a mortgage transaction to which subsection 1 applies is entitled to rescission of the contract if,

- (a) subsection 1 has not been complied with; and
- (b) written notice of exercising the right of rescission is served on the mortgagor, assignor or mortgage broker within ninety days of the signing of the contract.

Onus

(4) In an action for rescission under subsection 3, the onus of proving compliance with subsection 1 rests upon the mortgagor or assignor.

Rights
reserved

(5) The right of rescission provided in this section is in addition to any other rights that the lender or assignee may have in respect of the contract or arrangement.

13. Each prospectus submitted to the Registrar for filing shall be accompanied by, Material
filed with
prospectus

- (a) an affidavit of the proposed mortgagor or assignor or, where the proposed mortgagor or assignor is a corporation, any two officers or an officer and a director, as to the correctness of every matter of fact stated in the prospectus;
- (b) a copy of every plan referred to in the prospectus;
- (c) a copy of every form of contract referred to in the prospectus;
- (d) such documents as the Registrar may require to support any statement of fact, proposal or estimate set out in the prospectus;
- (e) such financial particulars of the proposed mortgagor or assignor as the Registrar may require; and
- (f) the prescribed fees.

14.—(1) The Registrar may make such inquiries with respect to a prospectus as are necessary to determine whether a certificate of acceptance should be issued, including, Inquiries
by
Registrar

- (a) an examination of the subdivision and any of the surrounding circumstances; and
- (b) the obtaining of reports from public authorities or others within or outside Ontario.

(2) The reasonable and proper costs of such inquiries or reports shall be borne by the person on whose behalf the prospectus was filed. Costs

15.—(1) The Registrar shall grant a certificate of acceptance except where it appears that, Refusal of
certificate
of
acceptance

- (a) the prospectus contains any statement, promise or forecast that is misleading, false or deceptive, or has the effect of concealing material facts;
- (b) adequate provision has not been made for the protection of deposits or other funds or for assurance of title or other interest contracted for;

- (c) the prospectus fails to comply in any substantial respect with any of the requirements prescribed;
- (d) the requirements of section 13 have not been complied with in any substantial respect;
- (e) the proposed methods of offering do not accord with standard real estate practices in Ontario.

Application
of s. 7

(2) Where the Registrar proposes to refuse to grant a certificate of acceptance, he shall serve notice of his proposal to refuse on the person on whose behalf the prospectus was filed and section 7 applies *mutatis mutandis* to the proposal in the same manner as to a proposal to refuse to register an applicant.

Revocation
of
certificate
of acceptance

16.—(1) Where it appears to the Registrar, subsequent to the filing of a prospectus and the granting of a certificate of acceptance therefor, that any of the conditions referred to in subsection 1 of section 15 exist or there has been any contravention of the Act or regulations, he may revoke the certificate of acceptance, which thereupon shall be deemed not to be issued.

Application
of s. 7

(2) Subject to subsection 3, the Registrar shall not revoke a certificate of acceptance and make an order under subsection 1 without serving notice of his proposal to revoke the certificate and make the order, together with written reasons therefor, on the person on whose behalf the prospectus was filed, and section 7 applies *mutatis mutandis* to the proposal in the same manner as to a proposal by the Registrar to revoke a registration.

Interim
suspension

(3) Where the Registrar proposes to revoke a certificate of acceptance, the Registrar may, where the Registrar considers it to be necessary in the public interest, by order temporarily suspend the certificate of acceptance and the order shall take effect immediately and where a hearing is required, the order expires fifteen days from the date of the notice requiring the hearing unless the hearing is commenced in which case the Tribunal holding the hearing may extend the time of expiration until the hearing is concluded.

Amendment
of
prospectus

17.—(1) If a change occurs with regard to any of the matters set out in any prospectus,

- (a) that would have the effect of rendering a statement in the prospectus false or misleading; or

- (b) that brings into being a fact or proposal that should have been disclosed in the prospectus if the fact or proposal had existed at the time of filing,

the person who filed the prospectus shall, within twenty days of the change occurring, notify the Registrar in writing of the change and shall file an amendment to the prospectus or a new prospectus as the Registrar may direct.

(2) Sections 13 to 16 apply *mutatis mutandis* where a prospectus is amended or new prospectus filed under subsection 1. Application of ss. 13-16

18. A certificate of acceptance expires twelve months after it is issued and shall thereupon be deemed not to be issued, subject to the right to file a new prospectus and obtain a certificate of acceptance therefor in accordance with this Act. Expiration of certificate of acceptance

19. No person shall publish or cause to be published any advertisement for mortgage transactions on a lot or unit in a subdivision located outside Ontario until the advertisement has been approved by the Registrar. Advertising

3. Section 33 of the said Act, as amended by the Statutes of Ontario, 1973, chapter 103, section 4, is further amended by adding thereto the following clauses: s. 33, amended

(l) prescribing the fees payable upon the filing of a prospectus;

(m) prescribing the information required to be contained in a prospectus.

4. This Act comes into force on a day to be named by proclamation of the Lieutenant Governor. Commencement

5. This Act may be cited as *The Mortgage Brokers Amendment Act, 1975*. Short title

An Act to amend
The Mortgage Brokers Act

1st Reading

May 15th, 1975

2nd Reading

3rd Reading

THE HON. S. B. HANDLEMAN
Minister of Consumer and
Commercial Relations

(Government Bill)

BILL 76

5TH SESSION, 29TH LEGISLATURE, ONTARIO
24 ELIZABETH II, 1975

An Act to amend The Mortgage Brokers Act

THE HON. S. B. HANDLEMAN
Minister of Consumer and Commercial Relations

TORONTO

PRINTED BY J. C. THATCHER, QUEEN'S PRINTER FOR ONTARIO

An Act to amend The Mortgage Brokers Act

HER MAJESTY, by and with the advice and consent of the Legislative Assembly of the Province of Ontario, enacts as follows:

1. Section 2 of *The Mortgage Brokers Act*, being chapter 278^{s. 2, amended} of the Revised Statutes of Ontario, 1970, is amended by inserting after "Act" in the first line "except sections 11 to 21".
2. The said Act is amended by renumbering section 21 as section 10 and by adding thereto the following sections:

11.—(1) In sections 11 to 19,

Interpre-
tation

(a) "mortgage transaction" means the borrowing of money on the security of real property or the assignment of a mortgage for consideration;

(b) "subdivision" means improved or unimproved land divided or proposed to be divided into five or more lots or other units for the purpose of sale or lease and includes land divided or proposed to be divided in condominium units.

(2) Sections 12 to 19 apply to mortgage transactions on the security of lots or units in a subdivision outside Ontario where the mortgagor or assignor is the owner of an interest in five or more such lots or units or has been the owner of such an interest at any time in the preceding five years.

Application
of ss. 12 to 19

(3) Sections 12 to 19 do not apply to mortgage transactions in which the mortgagee or assignee is a bank to which the *Bank Act* (Canada) applies or a loan or trust company

Idem

R.S.C. 1970,
c. B-1

R.S.O. 1970,
cc. 254, 224

registered under the *Loan and Trust Corporations Act* or an insurance company licensed under the *Insurance Act*.

Mortgage
transactions
where land
outside
Ontario

12.—(1) No person shall enter into or negotiate a mortgage transaction in respect of a lot or unit of land in a subdivision located outside Ontario unless,

- (a) a prospectus containing the prescribed information has been filed with the Registrar and the Registrar has issued a certificate of acceptance;
- (b) he is a registered mortgage broker or the mortgage transaction is negotiated by a registered mortgage broker;
- (c) a copy of the prospectus or such shorter form of the prospectus as the Registrar approves for distribution to the public has been delivered to the prospective lender or assignee;
- (d) the prospective lender or assignee has in writing acknowledged receipt of a copy of a prospectus or shorter form of prospectus and has been afforded an opportunity to read it.

Inspection
of
acknowledg-
ments

(2) Every acknowledgment referred to in subsection 1 shall be retained by the mortgagor, assignor or mortgage broker and be available for inspection by the Registrar for a period of not less than three years.

Rescission

(3) A lender or assignee who has entered into a mortgage transaction to which subsection 1 applies is entitled to rescission of the contract if,

- (a) subsection 1 has not been complied with; and
- (b) written notice of exercising the right of rescission is served on the mortgagor, assignor or mortgage broker within ninety days of the signing of the contract.

Onus

(4) In an action for rescission under subsection 3, the onus of proving compliance with subsection 1 rests upon the mortgagor or assignor.

Rights
Reserved

(5) The right of rescission provided in this section is in addition to any other rights that the lender or assignee may have in respect of the contract or arrangement.

13. Each prospectus submitted to the Registrar for filing shall be accompanied by, Material filed with prospectus

- (a) an affidavit of the proposed mortgagor or assignor or, where the proposed mortgagor or assignor is a corporation, any two officers or an officer and a director, as to the correctness of every matter of fact stated in the prospectus;
- (b) a copy of every plan referred to in the prospectus;
- (c) a copy of every form of contract referred to in the prospectus;
- (d) such documents as the Registrar may require to support any statement of fact, proposal or estimate set out in the prospectus;
- (e) such financial particulars of the proposed mortgagor or assignor as the Registrar may require; and
- (f) the prescribed fees.

14.—(1) The Registrar may make such inquiries with respect to a prospectus as are necessary to determine whether a certificate of acceptance should be issued, including, Inquiries by Registrar

- (a) an examination of the subdivision and any of the surrounding circumstances; and
- (b) the obtaining of reports from public authorities or others within or outside Ontario.

(2) The reasonable and proper costs of such inquiries or reports shall be borne by the person on whose behalf the prospectus was filed. Costs

15.—(1) The Registrar shall grant a certificate of acceptance except where it appears that, Refusal of certificate of acceptance

- (a) the prospectus contains any statement, promise or forecast that is misleading, false or deceptive, or has the effect of concealing material facts;
- (b) adequate provision has not been made for the protection of deposits or other funds or for assurance of title or other interest contracted for;

- (c) the prospectus fails to comply in any substantial respect with any of the requirements prescribed;
- (d) the requirements of section 13 have not been complied with in any substantial respect;
- (e) the proposed methods of offering do not accord with standard real estate practices in Ontario.

Application
of s. 7

(2) Where the Registrar proposes to refuse to grant a certificate of acceptance, he shall serve notice of his proposal to refuse on the person on whose behalf the prospectus was filed and section 7 applies *mutatis mutandis* to the proposal in the same manner as to a proposal to refuse to register an applicant.

Revocation
of
certificate
of acceptance

16.—(1) Where it appears to the Registrar, subsequent to the filing of a prospectus and the granting of a certificate of acceptance therefor, that any of the conditions referred to in subsection 1 of section 15 exist or there has been any contravention of the Act or regulations, he may revoke the certificate of acceptance, which thereupon shall be deemed not to be issued.

Application
of s. 7

(2) Subject to subsection 3, the Registrar shall not revoke a certificate of acceptance and make an order under subsection 1 without serving notice of his proposal to revoke the certificate and make the order, together with written reasons therefor, on the person on whose behalf the prospectus was filed, and section 7 applies *mutatis mutandis* to the proposal in the same manner as to a proposal by the Registrar to revoke a registration.

Interim
suspension

(3) Where the Registrar proposes to revoke a certificate of acceptance, the Registrar may, where the Registrar considers it to be necessary in the public interest, by order temporarily suspend the certificate of acceptance and the order shall take effect immediately and where a hearing is required, the order expires fifteen days from the date of the notice requiring the hearing unless the hearing is commenced in which case the Tribunal holding the hearing may extend the time of expiration until the hearing is concluded.

Amendment
of
prospectus

17.—(1) If a change occurs with regard to any of the matters set out in any prospectus,

- (a) that would have the effect of rendering a statement in the prospectus false or misleading; or

- (b) that brings into being a fact or proposal that should have been disclosed in the prospectus if the fact or proposal had existed at the time of filing,

the person who filed the prospectus shall, within twenty days of the change occurring, notify the Registrar in writing of the change and shall file an amendment to the prospectus or a new prospectus as the Registrar may direct.

- (2) Sections 13 to 16 apply *mutatis mutandis* where a prospectus is amended or new prospectus filed under subsection 1. Application of ss. 13-16

18. A certificate of acceptance expires twelve months after it is issued and shall thereupon be deemed not to be issued, subject to the right to file a new prospectus and obtain a certificate of acceptance therefor in accordance with this Act. Expiration of certificate of acceptance

19. No person shall publish or cause to be published any advertisement for mortgage transactions on a lot or unit in a subdivision located outside Ontario until the advertisement has been approved by the Registrar. Advertising

3. Section 33 of the said Act, as amended by the Statutes of Ontario, 1973, chapter 103, section 4, is further amended by adding thereto the following clauses: s. 33, amended

(l) prescribing the fees payable upon the filing of a prospectus;

(m) prescribing the information required to be contained in a prospectus.

4. This Act comes into force on a day to be named by proclamation of the Lieutenant Governor. Commencement

5. This Act may be cited as *The Mortgage Brokers Amendment Act, 1975*. Short title

An Act to amend
The Mortgage Brokers Act

1st Reading

May 15th, 1975

2nd Reading

May 27th, 1975

3rd Reading

May 27th, 1975

THE HON. S. B. HANDLEMAN
Minister of Consumer and
Commercial Relations

5TH SESSION, 29TH LEGISLATURE, ONTARIO
24 ELIZABETH II, 1975

An Act to amend The Power Corporation Act

THE HON. D. TIMBRELL
Minister of Energy

EXPLANATORY NOTES

SECTION 1. Municipal corporation is defined and is complementary to new subsection 1 of section 95 of the Act.

The definition of "other purchasers" is complementary to new sections 14, 15 and 76 of the Act.

SECTION 2. Ontario Hydro's Board of Directors is increased from 13 to 15.

SECTION 3. Complementary to new section 76 of the Act.

An Act to amend The Power Corporation Act

HER MAJESTY, by and with the advice and consent of the Legislative Assembly of the Province of Ontario, enacts as follows:

1. Section 1 of *The Power Corporation Act*, being chapter 354 of the Revised Statutes of Ontario, 1970, as amended by the Statutes of Ontario, 1973, chapter 57, section 3, is further amended by adding thereto the following clauses:

(db) "municipal corporation" means the corporation of a locality the inhabitants of which are incorporated and includes the corporation of a metropolitan, regional or district municipality;

(dc) "other purchasers" means,

(i) persons supplied with power pursuant to section 70, and

(ii) customers supplied with power pursuant to Part IV.

2. Subsection 1 of section 3 of the said Act, as re-enacted by the Statutes of Ontario, 1973, chapter 57, section 4, is amended by striking out "ten" in the third line and inserting in lieu thereof "twelve".

- 3.—(1) Clause *a* of subsection 3 of section 7 of the said Act, as amended by the Statutes of Ontario, 1973, chapter 57, section 2, is further amended by striking out "cost of power to" in the fourth line and inserting in lieu thereof "price payable for power by".

- (2) Subsection 3 of the said section 7 is amended by striking out "cost of" in the twenty-first line and inserting in lieu thereof "price payable for".

s. 12,
re-enacted

4. Section 12 of the said Act, as amended by the Statutes of Ontario, 1973, chapter 57, sections 2 and 8, is repealed and the following substituted therefor:

Application
of moneys
and revenues
of Corpora-
tion

12. The Corporation may use and employ all moneys and revenues that are in or hereafter come into its hands only for such purposes as are authorized or required by this Act.

ss. 14, 15,
re-enacted

5. Sections 14 and 15 of the said Act, as amended by the Statutes of Ontario, 1973, chapter 57, section 2, are repealed and the following substituted therefor:

Accumulated
Equities
Account
established

14.—(1) The Corporation shall establish and maintain an Accumulated Equities Account and shall transfer to that account, as of the 31st day of December, 1974,

- (a) such portion of the credit balance recorded for the combined benefit of all municipal corporations and other purchasers as may be designated by the Corporation; and
- (b) the credit balance recorded for the sole benefit of municipal corporations,

in the stabilization of rates and contingencies reserve account heretofore maintained on the books of the Corporation in accordance with section 16 as section 16 existed immediately before the coming into force of this section, and

- (c) the credit balances representing sums which were set apart annually by the Corporation as a sinking fund in accordance with section 17 to be used or employed in accordance with section 18 as sections 17 and 18 existed immediately before the coming into force of this section.

Amounts to
be recorded

(2) Commencing with the fiscal year 1975, and for each succeeding fiscal year, the Corporation shall record in the Accumulated Equities Account the amounts included in the price payable for power by municipal corporations and other purchasers pursuant to subsection 1 of section 76 for the purposes of clause c thereof.

Use of
amounts

(3) The amounts included in the price payable for power by municipal corporations and other purchasers pursuant to subsection 1 of section 76 for the purposes of clause c thereof shall be allocated, used and employed by the Corporation for such purposes, but the portion of those amounts allocated, used and employed for repayment of any indebtedness of the Corporation shall not be less than the minimum amount specified in the said clause c.

SECTION 4. Section 12 of the Act is re-enacted to remove references to the reserves, which are abolished, and is simplified for clarity.

SECTION 5. Sections 14 and 15, which authorized reserve accounts for depreciation, insurance and frequency standardization, are repealed.

In new section 14, the new Accumulated Equities Account records customers' capital contributions, which are the amounts included in rates pursuant to subsection 1 of section 76 for purposes of debt retirement and system expansion. Past capital contributions, recorded to date in the sinking fund (section 17) and stabilization of rates and contingency reserve (section 16) are transferred into the new account as of December 31, 1974. Subsection 3 of section 14 provides that capital contributions are to be used only for capital purposes. Subsection 4 of section 14 provides that unused moneys may be invested temporarily.

In new section 15, the Accumulated Surplus or Deficit Account generally replaces the thirteenth bill as a method of reconciling billings and actual operating costs. Surpluses and deficits of any year will be credited or made up in the rates of subsequent years (sections 15 (5), 76 (1)). Certain existing credit and deficit balances in the stabilization of rates and contingency reserve are transferred into the new account as of December 31, 1974 as its opening entries.

(4) The Corporation may deal with any portion of the amounts referred to in subsection 3 not immediately required for the purposes of clause *c* of subsection 1 of section 76 in accordance with section 20. Temporary investments

15.—(1) The Corporation shall establish and maintain an Accumulated Surplus or Deficit Account and shall transfer to that account as of the 31st day of December, 1974, from the stabilization of rates and contingencies reserve account heretofore maintained on the books of the Corporation in accordance with section 16 as section 16 existed immediately before the coming into force of this section, Accumulated Surplus or Deficit Account established

- (a) the deficit balances recorded in respect of the supply of power to persons pursuant to section 70 and customers pursuant to Part IV; and
- (b) the remainder of the credit balance recorded for the combined benefit of all municipal corporations and other purchasers after the transfer of the portion designated under clause *a* of subsection 1 of section 14 has been made,

and the amount referred to in clause *b* shall be allocated among the municipal corporations and other purchasers in such manner as the Corporation may determine.

(2) Commencing with the fiscal year 1975 and for each succeeding fiscal year, the Corporation shall, for the purposes of this section, allocate and adjust its net income among municipal corporations and other purchasers in such amounts as the Corporation may determine, and shall record in the Accumulated Surplus or Deficit Account the amounts by which, Amounts to be recorded

- (a) the net income of the Corporation, so allocated and adjusted,

exceed or are less than,

- (b) the amounts included in the price payable for power by the municipal corporations and other purchasers pursuant to subsection 1 of section 76 for the purposes of clause *c* thereof.

(3) The Corporation may credit or charge interest at a rate that may be determined by the Corporation from time to time to or against the credit or deficit balances in the Accumulated Surplus or Deficit Account. Interest on balances

Transfers of
amounts in
exceptional
circum-
stances

(4) If the Corporation determines that exceptional circumstances warrant such action, the Corporation may transfer amounts representing the whole or part of any loss arising from injury to, destruction, obsolescence or loss of use of any works or other property of the Corporation or other contingencies arising in the operations of the Corporation, from the Accumulated Surplus or Deficit Account to the Accumulated Equities Account.

Use of
balances

(5) Any surplus balance recorded in the Accumulated Surplus or Deficit Account shall be used to reduce the price payable for power by the municipal corporations and other purchasers in respect of whom the surplus is recorded during such period as the Corporation may determine.

ss. 16-19,
repealed

6. Sections 16, 17, 18 and 19 of the said Act, as amended by the Statutes of Ontario, 1973, chapter 57, section 2, are repealed.

s. 24 (2) (c),
re-enacted

7.—(1) Clause *c* of subsection 2 of section 24 of the said Act, as amended by the Statutes of Ontario, 1973, chapter 57, section 2, is repealed and the following substituted therefor:

to acquire and
construct
works for
production
and use of
power

(c) generate and produce power at places in Ontario by any means, and transform, transmit, make available for use, distribute, deliver, sell, supply and generally use for the purposes of the Corporation such power and connect the works constructed or installed for these purposes with any other power works and with any system.

s. 24 (2) (d, m),
re-enacted
s. 24 (2) (l),
repealed

(2) Clauses *d*, *l*, and clause *m* as amended by the Statutes of Ontario, 1973, Chapter 57, section 2, of subsection 2 of the said section 24 are repealed and the following substituted therefor:

acquire and
use property
related to
provision
of power

(d) for the purposes of clause *c*, acquire, produce, construct, maintain, operate and use works and other real and personal property, including anything in or outside Ontario related to a supply of fuel, and in conjunction with any acquisition, acquire all or any part of the remaining real and personal property of the person from whom the acquisition is made;

carry on
business
through
subsidiaries
or joint
ventures

(m) (i) procure the incorporation of any corporation, or
(ii) acquire by any means and exercise direction and control of any corporation,

Subsection 4 permits all or part of extraordinary losses to be written off against the Accumulated Equities Account when it is inappropriate to recover them through rates.

SECTION 6. The stabilization of rates and contingencies reserve and the sinking fund are repealed.

SECTION 7.—Subsection 1. Clause *c* of subsection 2 of section 24 of the Act is re-enacted to remove the references to particular types of fuel.

Subsection 2. Clause *d* is amended to include works and property related to a supply of fuel in or outside Ontario.

Clauses *l* and *m* are repealed and replaced by new clause *m*, which permits the Lieutenant Governor in Council to authorize the Corporation to carry on any portion of its business through a subsidiary or joint venture.

Subsection 3. Subsection 3, which referred to the powers contained in *The Public Works Act*, is repealed.

New subsection 3 expressly includes Hydro's expenditures for the purposes of section 24 in the computation of the new debt retirement and system expansion charge provided for by section 76 of the Act.

New subsection 3*a* provides that subsidiaries and works to be specified by regulation, shall not be disposed of without the approval of the Lieutenant Governor in Council.

New subsection 3*b* authorizes Hydro to transfer assets to a subsidiary.

The definition of fuel is complementary to subsection 2.

to carry on, on behalf of the Corporation, the business of providing power in Ontario or any business related to the provision of power in Ontario, including any business related to a supply of fuel from within or outside Ontario, or otherwise participate with any person in carrying on any such business on such terms and conditions as may be prescribed by the Lieutenant Governor in Council, which for greater certainty may include any covenant or agreement, any payment in cash or in obligations of the Corporation, or any guarantee or covenant or agreement for or in respect of the performance of any obligations, securities, or contracts of any corporation or person mentioned in this clause.

- (3) Subsection 3 of the said section 24, as amended by the Statutes of Ontario, 1973, chapter 57, section 2, is repealed and the following substituted therefor: s. 24 (3), re-enacted

(3) For the purposes of this Act, any payment made or obligation or contract assumed by the Corporation for the purposes of this section shall be deemed to be a cost incurred by the Corporation in respect of providing works or an indebtedness of the Corporation, whichever is applicable. Costs that are deemed to be investments in works

(3a) The Corporation or any corporation controlled by the Corporation shall not sell, lease or otherwise dispose of, Disposition of property

(a) any works of any class specified in regulations that may be made by the Lieutenant Governor in Council; or

(b) any interest in a corporation controlled by it,

other than to the Corporation, except with the approval of the Lieutenant Governor in Council.

(3b) Notwithstanding subsection 3a, the Corporation may sell, lease or otherwise transfer any real or personal property to any corporation referred to in subclauses i and ii of clause *m* of subsection 2 for purposes related to the provision of power in Ontario, including a supply of fuel from within or outside Ontario. Transfer to subsidiaries

(3c) For the purposes of this section, "fuel" means any thing capable of being used or made useful as a source of energy related to the generation and production of power and also includes deuterium, its derivatives and compounds. Interpretation

s. 24a,
enacted

8. The said Act is amended by adding thereto the following section:

Extra-
provincial
powers

24a. Subject to the prior authorization of the Lieutenant Governor in Council where provided for under this Act, the Corporation may exercise its powers beyond the boundaries of Ontario to the extent to which the laws in force where the powers are sought to be exercised permit, and may accept extra-provincial powers and rights.

s. 38 (2),
repealed

9. Subsection 2 of section 38 of the said Act, as amended by the Statutes of Ontario, 1973, chapter 57, section 2, is repealed.

ss. 51, 52,
repealed

10. Sections 51 and 52 of the said Act, as amended by the Statutes of Ontario, 1973, chapter 57, section 2, are repealed.

s. 54 (3) (f),
amended

11. Clause *f* of subsection 3 of section 54 of the said Act, as amended by the Statutes of Ontario, 1973, chapter 57, section 2, is further amended by striking out "84" in the second line and inserting in lieu thereof "Part IV".

s. 59 (2),
re-enacted

- 12.—(1) Subsection 2 of section 59 of the said Act, as amended by the Statutes of Ontario, 1973, chapter 57, section 2, is repealed and the following substituted therefor:

Manu-
facturing and
dealing in
supplies

(2) The Lieutenant Governor in Council, upon the request of the Corporation specifying,

(a) the nature and volume of the business to be carried on; and

(b) the extent of the liability that may be incurred in connection therewith,

may authorize the Corporation to manufacture in Ontario such electrical, hydraulic or other machinery, appliances, apparatus and furnishings as may be used in the development, transmission, distribution, supply or use of power, and to acquire patents of invention or interests therein, and to sell or dispose of such machinery, appliances, furnishings or patent rights.

s. 59 (7),
repealed

- (2) Subsection 7 of the said section 59, as amended by the Statutes of Ontario, 1973, chapter 57, section 2, is repealed.

ss. 60, 61,
re-enacted

13. Sections 60 and 61 of the said Act, as amended by the Statutes of Ontario, 1973, chapter 57, section 2, are repealed and the following substituted therefor:

SECTION 8. Section 24a of the Act expressly authorizes Hydro to contract outside Ontario to the extent allowed by the laws of the foreign jurisdiction.

SECTION 9. The section repeals a separate provision for the repayment of the cost of office buildings.

SECTION 10. Sections 51 and 52 of the Act provided for repayments of advances and are repealed as spent.

SECTION 11. Section 84 is contained in Part IV of the Act.

SECTION 12. Subsection 7 and part of subsection 2 are repealed. Profits and losses from all miscellaneous activities are now accounted for through the Accumulated Surplus or Deficit Account (section 15).

SECTION 13. Sections 60 and 61 are re-enacted since miscellaneous revenues are now accounted for through the Accumulated Surplus or Deficit Account (section 15).

SECTION 14. Complementary to new section 76.

SECTION 15. Payment of interest by municipalities on arrears of power accounts is provided for by the new section 78.

SECTION 16. Section 71 is repealed and section 70 is re-enacted as two sections to segregate continuous from at-will sales. Approval of the Lieutenant Governor in Council is now required only for contracts for the supply of power for use outside Ontario. References to the now completed frequency conversion program are removed.

SECTION 17. Section 84 is contained in Part IV.

60. Where in the course of the operations of the Corporation any commodity is produced as a by-product or is found upon property vested in the Corporation, the Corporation may sell or otherwise dispose of the commodity at such prices and upon such terms as it considers proper. Sale of by-products

61. When any works constructed or acquired by the Corporation for the purpose of supplying power are not in use for that purpose, the Corporation may utilize them for such revenue-producing purposes as it considers proper. Utilization of unused works

14. Subsection 2 of section 62 of the said Act, as amended by the Statutes of Ontario, 1973, chapter 57, section 2, is further amended by striking out "cost" in the second line and inserting in lieu thereof "price". s. 62 (2), amended
15. Section 63a of the said Act, as enacted by the Statutes of Ontario, 1973, chapter 57, section 15, is repealed. s. 63a, repealed
16. Sections 70 and 71 of the said Act, as amended by the Statutes of Ontario, 1973, chapter 57, section 2, are repealed and the following substituted therefor: ss. 70, 71, re-enacted

70. In addition to the powers conferred on the Corporation to supply power to municipal corporations, and to customers pursuant to Part IV, the Corporation may contract with any other person for a commercially continuous supply of power, or for any supply subject to interruption, for use inside or outside Ontario upon such terms and conditions as the Corporation considers desirable, but a contract for the supply of power for use outside Ontario is subject to the approval of the Lieutenant Governor in Council. Direct contracts

71. In addition to the powers conferred on the Corporation to supply power to municipal corporations and other purchasers, the Corporation may contract with any person for a supply of power other than on a basis mentioned in section 70 for use inside or outside Ontario at such rates and charges and upon such terms and conditions as the Corporation considers desirable, but a contract for the supply of power for use outside Ontario is subject to the approval of the Lieutenant Governor in Council. At-will contracts

17. Subsection 1 of section 73 of the said Act, as amended by the Statutes of Ontario, 1973, chapter 57, section 2, is further amended by striking out "section 84" in the fourth line and inserting in lieu thereof "Part IV". s. 73 (1), amended

s. 76,
re-enacted

18. Section 76 of the said Act, as amended by the Statutes of Ontario, 1973, chapter 57, section 2, is repealed and the following substituted therefor:

Bulk power
pricing

76.—(1) Notwithstanding anything in any contract entered into by the Corporation for a supply of power, the price payable for power by a municipal corporation or other purchaser shall be determined by the Corporation based only upon the amounts required,

- (a) for the purposes of meeting the costs of operation, maintenance, improvement, depreciation and insurance of the works and the costs of administration of the Corporation;
- (b) to provide for interest and expenses of debt service, and any interest charged or credited on the balances remaining from time to time to the credit of any account established under this Act;
- (c) to be applied towards,
 - (i) repayment of any indebtedness of the Corporation, and
 - (ii) costs incurred by the Corporation in respect of providing works,

but the minimum amount determined for the purposes of subclauses i and ii shall be an annual amount sufficient, with interest at 4 per cent per year, to repay within forty years any indebtedness of the Corporation;

- (d) to restore, over such period of time as the Corporation may determine, any deficit balance recorded in the Accumulated Surplus or Deficit Account; and
- (e) to be applied towards meeting any expenses or costs caused by or arising from injury to or destruction, obsolescence or loss of use of any works or other property of the Corporation and any contingencies arising in the operations of the Corporation,

as the Corporation may allocate and adjust such amounts among the municipal corporations and other purchasers.

Specific
facilities

(2) For greater certainty, the price payable for power by any municipal corporation or other purchaser shall include any additional amounts required by the Corporation for the

SECTION 18. Section 76 is re-enacted with the following significant changes:

1. The principles of wholesale pricing are made uniform for almost all customers in the province.
2. The provision for debt retirement in the costing formula is replaced by a combined charge for debt retirement and system expansion.
3. Provision is made to recover deficit balances appearing in the Accumulated Surplus or Deficit Account.

Subsection 2 refers to specific facilities.

SECTION 19. Section 76a of the Act clarifies Hydro's right to continue the practice of the return on equity.

SECTION 20. Section 77, which referred to the sinking fund, is repealed. The repeal is complementary to new section 14 of the Act.

Section 78 of the Act is re-enacted as new section 77 to permit the interest rate charged on arrears of power bills to be determined by the Corporation.

Section 79 of the Act is repealed as surpluses are now dealt with through the Accumulated Surplus or Deficit Account (section 15).

Sections 80 and 81, which refer to "systems", are spent and are repealed.

Section 82, which required an annual adjustment of rates and costs through "13th bills", is repealed and re-enacted in clause *d* of new section 78 pursuant to which the Corporation may but is no longer required to issue 13th bills.

New section 78 also provides for monthly payments for power by municipalities, and for interest on arrears at a rate determined by the Corporation.

New section 79 is self-explanatory.

purposes of the distribution, supply and delivery to that municipal corporation or other purchaser.

19. The said Act is further amended by adding thereto the following section: s. 76a,
enacted

76a. For greater certainty, the Corporation has, pursuant to clause *b* of subsection 1 of section 76, authority to reflect in the price payable for power by municipal corporations and other purchasers, the amounts commonly described as "cost of return on equity" and "return on equity". Cost of
and return
on equity

20. Sections 77, 78, 79, 80, 81 and 82 of the said Act, as amended by the Statutes of Ontario, 1973, chapter 57, section 2, are repealed and the following substituted therefor: ss. 77-79,
re-enacted
ss. 80-82,
repealed

77. The Corporation may, during the first three years after a municipal corporation first begins to take power from the Corporation, extend the time for payment of any sum payable by it, and the municipal corporation shall pay to the Corporation interest on the amount that may be in arrears or for the payment for which time is extended until the payment thereof, at such rate as may be determined by the Corporation from time to time. Extending
time for
payments by
municipalities

78. Notwithstanding any agreement heretofore or hereafter entered into by the Corporation for the supply of power to a municipal corporation, Payment by
municipal
corporations

- (a) a municipal corporation shall pay to the Corporation for power supplied to the municipal corporation in accordance with monthly invoices rendered by the Corporation at the price determined in accordance with section 76 expressed as one or more demand rates applied to the kilowatts taken by the municipal corporation during such time intervals as are established by the Corporation for billing purposes and one or more energy rates applied to the kilowatt-hours consumed by the municipal corporation;
- (b) where the Corporation does not receive payment of an invoice within fifteen days from the date the Corporation rendered the invoice, the payment shall be deemed to be in arrears;
- (c) interest on a payment in arrears shall be charged to and paid by the municipal corporation at such rate as may be determined by the Corporation; and

- (d) the Corporation may make any adjustment in the amounts paid or payable by a municipal corporation in accordance with this section and section 76 at the close of a fiscal year, and when such adjustment is made, the difference between the invoiced amounts and the adjusted amounts shall be paid by the municipal corporation to the Corporation or credited to the municipal corporation by the Corporation, as the case may be.

Maximum
rate of
interest

79. For the purposes of this Act, any rate of interest to be determined or approved by the Corporation shall not exceed 1 per cent per month.

s. 83 (7),
re-enacted

- 21.** Subsection 7 of section 83 of the said Act, as amended by the Statutes of Ontario, 1973, chapter 57, section 2, is repealed and the following substituted therefor:

Rates and
charges

(7) The provisions of section 76 with respect to the price payable for the supply of power by the Corporation to customers pursuant to Part IV apply to any contract entered into under this section and extend to all street lighting works constructed under the contract, but do not apply in respect of the capital cost of works acquired or constructed by the township.

s. 84 (2),
amended

- 22.** Subsection 2 of section 84 of the said Act, as amended by the Statutes of Ontario, 1973, chapter 57, section 2, is further amended by striking out "at cost" in the fourth line and inserting in lieu thereof "pursuant to Part II".

s. 90,
re-enacted,
ss. 91, 92,
repealed

- 23.** Sections 90, 91 and 92 of the said Act, as amended by the Statutes of Ontario, 1973, chapter 57, section 2, are repealed and the following substituted therefor:

Penalties and
discounts

90. The Corporation may, in respect of any payment for a supply of power pursuant to this Part,

- (a) impose a late payment penalty charge on any payment in arrears consisting of such fixed amount or such percentage of the amount otherwise payable as may be determined by the Corporation; or
- (b) allow such percentage discount from the amount otherwise payable for prepayment or punctual payment as may be determined by the Corporation,

and may in addition charge interest at such rate as may be determined by the Corporation on any payment in arrears computed from the thirtieth day that the payment is in arrears to the day of payment.

SECTION 21. Township street lighting contracts are now included and accounted for with the supply of power in the rural power district.

SECTION 22. The amendment is complementary to new section 76 of the Act.

SECTION 23. Sections 90, 91 and 92 provided for rates in the rural power district which are now included in new section 76 of the Act.

New section 90 clarifies Hydro's authority to charge for late payment of bills by its customers in the rural power district.

SECTION 24. The minimum fine clause is increased from \$25 to \$50 and the maximum from \$500 to \$2,000 for an infraction of the Electrical Safety Code.

SECTION 25. Subsection 1 of section 95 of the Act is re-enacted to include the borrowings for power purposes of regional municipalities which do not have contracts with the Corporation.

Subsection 7 is repealed since a separate provision for The Municipality of Metropolitan Toronto will no longer be required.

SECTION 26. New section 96 clarifies municipal authority to charge for late payment of customer bills as may be approved by the Corporation.

24. Clause *b* of subsection 11 of section 94 of the said Act is amended by striking out "\$25" in the fourth line and inserting in lieu thereof "\$50" and by striking out "\$500" in the fifth line and inserting in lieu thereof "\$2,000". s. 94 (11) (b),
amended

25.—(1) Subsection 1 of section 95 of the said Act, as amended by the Statutes of Ontario, 1973, chapter 57, section 2, is repealed and the following substituted therefor: s. 95 (1),
re-enacted

(1) The council of a municipal corporation shall not pass a by-law for the issue of debentures or borrow money by other means for any extension or improvement to works maintained and operated within the boundaries of the corporation for the supply and distribution of power supplied by the Corporation without having first obtained the assent of the Corporation to the amount of such issue or other borrowing and the purposes of which the proceeds of the issue or other borrowing are to be applied. Municipal
borrowing
for power
purposes

(2) Subsection 7 of the said section 95, as amended by the Statutes of Ontario, 1973, chapter 57, section 2, is repealed. s. 95 (7),
repealed

26. Section 96 of the said Act, as amended by the Statutes of Ontario, 1973, chapter 57, section 2, is repealed and the following substituted therefor: s. 96,
re-enacted

96.—(1) The rates and charges for supplying power, including without limitation any late payment penalty charge, discount or interest referred to in subsection 2, and the rents and charges to meet the cost of any work or service done or furnished for the purposes of a supply of power, chargeable by any municipal corporation or municipal commission generating or receiving and distributing power are subject at all times to the approval and control of the Corporation, and the rates, and such rents and charges, charged by any company or individual receiving power from the Corporation for the supply of power are subject at all times to such approval and control. Rates and
charges
to be
approved

(2) Notwithstanding section 27 of *The Public Utilities Act*, a municipal corporation, municipal commission, company or individual referred to in subsection 1 may, Penalties and
discounts
R.S.O. 1970,
c. 390

(a) impose a late payment penalty charge on any payment in arrears consisting of such fixed amount or such percentage of the amount otherwise payable as may be approved by the Corporation; or

- (b) allow such percentage discount from the amount otherwise payable for prepayment or punctual payment as may be approved by the Corporation,

and may in addition charge interest at such rate as may be approved by the Corporation on any payment in arrears computed from the thirtieth day that the payment is in arrears to the day of payment.

s. 98 (6),
amended

- 27.** Subsection 6 of section 98 of the said Act, as amended by the Statutes of Ontario, 1973, chapter 57, section 2, is further amended by striking out "cost of" in the fourth line and inserting in lieu thereof "price for".

Commence-
ment

- 28.** This Act shall be deemed to have come into force on the 1st day of January, 1975.

Short title

- 29.** This Act may be cited as *The Power Corporation Amendment Act, 1975*.

SECTION 27. Complementary to new section 76 of the Act.

An Act to amend
The Power Corporation Act

1st Reading

May 16th, 1975

2nd Reading

3rd Reading

THE HON. D. TIMBRELL
Minister of Energy

(Government Bill)

5TH SESSION, 29TH LEGISLATURE, ONTARIO
24 ELIZABETH II, 1975

**An Act to amend
The Ministry of Colleges and Universities Act, 1971**

THE HON. J. A. C. AULD
Minister of Colleges and Universities

TORONTO

PRINTED BY J. C. THATCHER, QUEEN'S PRINTER FOR ONTARIO

EXPLANATORY NOTE

The purpose of the Bill is to provide for the payment of interest by the Minister on guaranteed student loans for prescribed periods. During such period no interest would be payable by the student.

**An Act to amend
The Ministry of Colleges and Universities
Act, 1971**

HER MAJESTY, by and with the advice and consent of the Legislative Assembly of the Province of Ontario, enacts as follows:

1. *The Ministry of Colleges and Universities Act, 1971*, being chapter 66, is amended by adding thereto the following section:

6e.—(1) Where a loan is made under section 6d, the Minister shall pay to a chartered bank in respect of each guaranteed student loan that a student borrower is obliged to repay to that bank, interest thereon at the rate and for the period prescribed by the regulations and no interest is payable by a student on such guaranteed student loan in respect of such period.

s. 6e.
enacted

Minister
to pay
interest

(2) The Lieutenant Governor in Council may make regulations,

Regulations

- (a) prescribing the rate of interest payable by the Minister or a student borrower to a bank on a guaranteed student loan;
- (b) prescribing the period that may lapse after which the principal amount of a guaranteed student loan and interest thereon shall commence to be payable by the student borrower;
- (c) respecting the subrogation of Her Majesty in right of Ontario to the rights of a bank with respect to a guaranteed student loan;
- (d) prescribing procedures to be followed by a bank with respect to a guaranteed student loan;
- (e) prescribing the provisions to be included in agreements between borrowers and banks related to guaranteed student loans;

- (f) providing for the alteration of agreements between borrowers and banks and prescribing the conditions and consequences of such alterations;
- (g) providing for the assignment or transfer by banks of agreements between borrowers and banks and prescribing the conditions and consequences of such assignments or transfers;
- (h) prescribing, in the event of default in the repayment of a guaranteed student loan, the measures to be taken by the bank and the procedures to be followed for the collection of the amount of the loan outstanding and accrued interest;
- (i) prescribing the method of determining the amount of any loss sustained by a bank as a result of a guaranteed student loan;
- (j) prescribing the procedure to be followed by a bank in making a claim against the Minister;
- (k) prescribing the maximum number of years that may elapse after which the principal amount of a guaranteed student loan and interest thereon shall commence to be payable by the borrower;
- (l) providing for reports to be made to the Minister for the purposes of this Act, and prescribing the kind of information to be included in those reports.

Commence-
ment

2. This Act comes into force on the day it receives Royal Assent.

Short title

3. This Act may be cited as *The Ministry of Colleges and Universities Amendment Act, 1975*.

An Act to amend
The Ministry of Colleges
and Universities Act, 1971

1st Reading

May 16th, 1975

2nd Reading

3rd Reading

THE HON. J. A. C. AULD
Minister of Colleges and Universities

(Government Bill)

BILL 78

5TH SESSION, 29TH LEGISLATURE, ONTARIO
24 ELIZABETH II, 1975

An Act to amend The Ministry of Colleges and Universities Act, 1971

THE HON. J. A. C. AULD
Minister of Colleges and Universities

**An Act to amend
The Ministry of Colleges and Universities
Act, 1971**

HER MAJESTY, by and with the advice and consent of the Legislative Assembly of the Province of Ontario, enacts as follows:

1. *The Ministry of Colleges and Universities Act, 1971*, being ^{s. 6e, enacted} chapter 66, is amended by adding thereto the following section:

6e.—(1) Where a loan is made under section 6d, the Minister shall pay to a chartered bank in respect of each guaranteed student loan that a student borrower is obliged to repay to that bank, interest thereon at the rate and for the period prescribed by the regulations and no interest is payable by a student on such guaranteed student loan in respect of such period. ^{Minister to pay interest}

(2) The Lieutenant Governor in Council may make regulations, ^{Regulations}

- (a) prescribing the rate of interest payable by the Minister or a student borrower to a bank on a guaranteed student loan;
- (b) prescribing the period that may lapse after which the principal amount of a guaranteed student loan and interest thereon shall commence to be payable by the student borrower;
- (c) respecting the subrogation of Her Majesty in right of Ontario to the rights of a bank with respect to a guaranteed student loan;
- (d) prescribing procedures to be followed by a bank with respect to a guaranteed student loan;
- (e) prescribing the provisions to be included in agreements between borrowers and banks related to guaranteed student loans;

- (f) providing for the alteration of agreements between borrowers and banks and prescribing the conditions and consequences of such alterations;
- (g) providing for the assignment or transfer by banks of agreements between borrowers and banks and prescribing the conditions and consequences of such assignments or transfers;
- (h) prescribing, in the event of default in the repayment of a guaranteed student loan, the measures to be taken by the bank and the procedures to be followed for the collection of the amount of the loan outstanding and accrued interest;
- (i) prescribing the method of determining the amount of any loss sustained by a bank as a result of a guaranteed student loan;
- (j) prescribing the procedure to be followed by a bank in making a claim against the Minister;
- (k) prescribing the maximum number of years that may elapse after which the principal amount of a guaranteed student loan and interest thereon shall commence to be payable by the borrower;
- (l) providing for reports to be made to the Minister for the purposes of this Act, and prescribing the kind of information to be included in those reports

Commence-
ment

2. This Act comes into force on the day it receives Royal Assent

Short title

3. This Act may be cited as *The Ministry of Colleges and Universities Amendment Act, 1975*.



An Act to amend
The Ministry of Colleges
and Universities Act, 1971

1st Reading

May 16th, 1975

2nd Reading

June 5th, 1975

3rd Reading

June 5th, 1975

THE HON. J. A. C. AULD
Minister of Colleges and Universities

5TH SESSION, 29TH LEGISLATURE, ONTARIO
24 ELIZABETH II, 1975

An Act to amend The Judicature Act

THE HON. J. T. CLEMENT
Attorney General

TORONTO

PRINTED BY J. C. THATCHER, QUEEN'S PRINTER FOR ONTARIO

EXPLANATORY NOTES

The amendments implement recommendations of the Ontario Law Reform Commission affecting the master's office and contained in Part III of the Report on the Administration of Ontario Courts.

SECTION 1. The titles of Master and assistant masters are changed to Senior Master and masters.

SECTION 2. Complementary to section 1 of this Bill.

SECTION 3. Complementary to section 1 of this Bill.

SECTION 4. The amendments provide for appointment, tenure of office and other matters similar to that provided for provincial judges in *The Provincial Courts Act* for the purpose of increasing the judicial independence of masters.

An Act to amend The Judicature Act

HER MAJESTY, by and with the advice and consent of the Legislative Assembly of the Province of Ontario, enacts as follows:

1. Clause *m* of section 1 of *The Judicature Act*, being chapter 228 of the Revised Statutes of Ontario, 1970, is repealed and the following substituted therefor: s. 1 (*m*),
re-enacted

(*m*) "master" means a Master of the Supreme Court and includes the Senior Master.
2. Subsection 3 of section 85 of the said Act is repealed. s. 85 (3),
repealed
3. Subsection 1 of section 97 of the said Act is amended by striking out "the Master of the Supreme Court" in the first and second lines and inserting in lieu thereof "masters". s. 97 (1),
amended
4. Sections 98 and 99 of the said Act are repealed and the following substituted therefor: ss. 98, 99,
re-enacted

MASTERS

98.—(1) The Lieutenant Governor in Council, on the recommendation of the Attorney General, may appoint such Masters of the Supreme Court as are considered necessary. Appointment
of masters

(2) A master may be removed from office before attaining retirement age only for misbehaviour or for inability to perform his duties properly and only if, Removal
for cause

- (a) the circumstances respecting the misbehaviour or inability are first inquired into; and
- (b) the master is given reasonable notice of the time and place for the inquiry and is afforded an opportunity, by himself or his counsel, of being

heard and of cross-examining the witnesses and of producing evidence on his own behalf.

Inquiry

(3) For the purpose of making an inquiry under subsection 2, the Lieutenant Governor in Council may appoint one or more judges of the Supreme Court who shall make the inquiry and report thereon, and a judge so appointed has, for that purpose, the powers of a commission under Part II of *The Public Inquiries Act, 1971*, which Part applies to such inquiry as if it were an inquiry under that Act.

1971, c. 49

Order for removal

(4) An order removing a master from office under this section may be made by the Lieutenant Governor in Council and the order and the report of the inquiry shall be laid before the Legislative Assembly if it is in session or, if not, within fifteen days after the commencement of the next ensuing session.

Retirement

99.—(1) Every master shall retire upon attaining the age of sixty-five years.

Idem

(2) Notwithstanding subsection 1, a master appointed before the 2nd day of December, 1968 shall retire upon attaining the age of seventy years.

Reappointment

(3) Upon attaining an age for retirement under subsection 1 or 2, a master may be reappointed to hold office during pleasure but shall not hold office after attaining the age of seventy-five years.

Resignation

(4) A master may at any time resign his office in writing, signed by him and delivered to the Attorney General.

Duties of Judicial Council for Provincial Judges
R.S.O. 1970, c. 369

99a. The Judicial Council for Provincial Judges established under *The Provincial Courts Act* has the same powers and shall perform the same duties in respect of the appointment of and investigation of complaints against masters as it has or may perform in respect of provincial judges.

Senior Master

99b.—(1) The Lieutenant Governor in Council, on the recommendation of the Attorney General, may appoint a master as Senior Master.

Temporary appointments

(2) The Attorney General may designate masters to act in the place of the Senior Master for all purposes during his illness or absence.

Duties

(3) The Senior Master shall have general supervision and direction over the administration of the offices of the masters

and arranging and assigning masters for hearings as circumstances require.

99c.—(1) The Lieutenant Governor in Council may make regulations, Remuneration, etc.

- (a) fixing the remuneration of masters;
- (b) providing for the benefits to which masters are entitled, including,
 - (i) leave of absence and vacations,
 - (ii) sick leave credits and payments in respect of such credits,
 - (iii) pension benefits for masters and their widows and surviving children,

and for the transfer or other disposition of benefits in respect thereof to which persons appointed as masters under this Act were entitled under *The Public Service Act* or *The Public Service Superannuation Act* at the time of their appointment under this Act. R.S.O. 1970, cc. 386, 387

(2) Subject to subsection 3, unless authorized by the Lieutenant Governor in Council, a master shall not practise or actively engage in any business, trade or occupation but shall devote his whole time to the performance of his duties as a master. Other employment

(3) A master, with the previous consent of the Attorney General, may act as arbitrator or conciliator. Idem

(4) *The Public Authorities Protection Act* applies to masters in the same manner and to the same extent as it applies to justices of the peace, without limiting any other defences available to masters under the law in respect of acts done in the execution of their duties. Application of R.S.O. 1970, c. 374

99d.—(1) The Lieutenant Governor in Council, on the recommendation of the Attorney General, may appoint such local masters as are considered necessary. Local masters

(2) Where a master or local master is not appointed in respect of a county, the county court judge is and shall perform the duties and exercise the powers of local master. Idem

Idem

(3) In the absence or inability to act of a local master appointed under subsection 1, the county court judge may perform the duties and exercise the powers of the local master.

s. 106 (1) (c),
amended

5.—(1) Clause *c* of subsection 1 of section 106 of the said Act is amended by inserting after “officers” in the first line “other than masters”.

s. 106 (2),
amended

(2) Subsection 2 of the said section 106 is amended by inserting after “officer” in the second line “other than a master”.

s. 114 (1) (e),
re-enacted

6.—(1) Clause *e* of subsection 1 of section 114 of the said Act is repealed and the following substituted therefor:

(*e*) the Senior Master.

s. 114 (10) (f),
amended

(2) Clause *f* of subsection 10 of the said section 114 is amended by striking out “Master of the Supreme Court, or any officer sitting for him” in the first and second lines and inserting in lieu thereof “masters”.

s. 118 (3),
amended

7. Subsection 3 of section 118 of the said Act is amended by adding at the end thereof “and where a claim for alimony or for the maintenance or custody of children is joined with a petition for divorce, the local judges of the High Court have the same jurisdiction and authorities to deal with such claim as may be exercised by the Supreme Court or a judge thereof”.

Commence-
ment

8.—(1) This Act, except section 7, comes into force on a day to be named by proclamation of the Lieutenant Governor.

Idem

(2) Section 7 shall be deemed to have come into force on the 1st day of July, 1971.

Short title

9. This Act may be cited as *The Judicature Amendment Act, 1975*.

SECTION 5. The provision amended sets out the duties of the Inspector of Legal Offices and the amendment deletes inquiry into the conduct of masters from these duties. The amendment is complementary to section 4 of this Bill.

SECTION 6. Complementary to section 1 of this Bill.

SECTION 7. Section 118 (3) of the Act gives local judges jurisdiction to try divorce cases. The amendment confirms that the judge may dispose of a concurrent claim for alimony, maintenance or custody even though the divorce is not granted. The amendment is retroactive to the 1st day of July, 1971 when the jurisdiction was first given to local judges by amendment to *The Judicature Act*.

An Act to amend
The Judicature Act

1st Reading

May 22nd, 1975

2nd Reading

3rd Reading

THE HON. J. T. CLEMENT
Attorney General

(Government Bill)

BILL 79

5TH SESSION, 29TH LEGISLATURE, ONTARIO
24 ELIZABETH II, 1975

An Act to amend The Judicature Act

THE HON. J. T. CLEMENT
Attorney General

TORONTO

PRINTED BY J. C. THATCHER, QUEEN'S PRINTER FOR ONTARIO

An Act to amend The Judicature Act

HER MAJESTY, by and with the advice and consent of the Legislative Assembly of the Province of Ontario, enacts as follows:

1. Clause *m* of section 1 of *The Judicature Act*, being chapter 228 of the Revised Statutes of Ontario, 1970, is repealed and the following substituted therefor: s. 1 (m),
re-enacted

(*m*) "master" means a Master of the Supreme Court and includes the Senior Master.
2. Subsection 3 of section 85 of the said Act is repealed. s. 85 (3),
repealed
3. Subsection 1 of section 97 of the said Act is amended by striking out "the Master of the Supreme Court" in the first and second lines and inserting in lieu thereof "masters". s. 97 (1),
amended
4. Sections 98 and 99 of the said Act are repealed and the following substituted therefor: ss. 98, 99,
re-enacted

MASTERS

98.--(1) The Lieutenant Governor in Council, on the recommendation of the Attorney General, may appoint such Masters of the Supreme Court as are considered necessary. Appointment
of masters

(2) A master may be removed from office before attaining retirement age only for misbehaviour or for inability to perform his duties properly and only if, Removal
for cause

- (a) the circumstances respecting the misbehaviour or inability are first inquired into; and
- (b) the master is given reasonable notice of the time and place for the inquiry and is afforded an opportunity, by himself or his counsel, of being

heard and of cross-examining the witnesses and of producing evidence on his own behalf.

Inquiry

(3) For the purpose of making an inquiry under subsection 2, the Lieutenant Governor in Council may appoint one or more judges of the Supreme Court who shall make the inquiry and report thereon, and a judge so appointed has, for that purpose, the powers of a commission under Part II of *The Public Inquiries Act, 1971*, which Part applies to such inquiry as if it were an inquiry under that Act.

1971, c. 49

Order for removal

(4) An order removing a master from office under this section may be made by the Lieutenant Governor in Council and the order and the report of the inquiry shall be laid before the Legislative Assembly if it is in session or, if not, within fifteen days after the commencement of the next ensuing session.

Retirement

99.—(1) Every master shall retire upon attaining the age of sixty-five years.

Idem

(2) Notwithstanding subsection 1, a master appointed before the 2nd day of December, 1968 shall retire upon attaining the age of seventy years.

Reappointment

(3) Upon attaining an age for retirement under subsection 1 or 2, a master may be reappointed to hold office during pleasure but shall not hold office after attaining the age of seventy-five years.

Resignation

(4) A master may at any time resign his office in writing, signed by him and delivered to the Attorney General.

Duties of Judicial Council for Provincial Judges
R.S.O. 1970, c. 369

99a. The Judicial Council for Provincial Judges established under *The Provincial Courts Act* has the same powers and shall perform the same duties in respect of the appointment of and investigation of complaints against masters as it has or may perform in respect of provincial judges.

Senior Master

99b.—(1) The Lieutenant Governor in Council, on the recommendation of the Attorney General, may appoint a master as Senior Master.

Temporary appointments

(2) The Attorney General may designate masters to act in the place of the Senior Master for all purposes during his illness or absence.

Duties

(3) The Senior Master shall have general supervision and direction over the administration of the offices of the masters

and arranging and assigning masters for hearings as circumstances require.

99c.—(1) The Lieutenant Governor in Council may make regulations, Remuneration, etc.

- (a) fixing the remuneration of masters;
- (b) providing for the benefits to which masters are entitled, including,
 - (i) leave of absence and vacations,
 - (ii) sick leave credits and payments in respect of such credits,
 - (iii) pension benefits for masters and their widows and surviving children,

and for the transfer or other disposition of benefits in respect thereof to which persons appointed as masters under this Act were entitled under *The Public Service Act* or *The Public Service Superannuation Act* at the time of their appointment under this Act. R.S.O. 1970, cc. 386, 387

(2) Subject to subsection 3, unless authorized by the Lieutenant Governor in Council, a master shall not practise or actively engage in any business, trade or occupation but shall devote his whole time to the performance of his duties as a master. Other employment

(3) A master, with the previous consent of the Attorney General, may act as arbitrator or conciliator. Idem

(4) *The Public Authorities Protection Act* applies to masters in the same manner and to the same extent as it applies to justices of the peace, without limiting any other defences available to masters under the law in respect of acts done in the execution of their duties. Application of R.S.O. 1970, c. 374

99d.—(1) The Lieutenant Governor in Council, on the recommendation of the Attorney General, may appoint such local masters as are considered necessary. Local masters

(2) Where a master or local master is not appointed in respect of a county, the county court judge is and shall perform the duties and exercise the powers of local master. Idem

- Idem (3) In the absence or inability to act of a local master appointed under subsection 1, the county court judge may perform the duties and exercise the powers of the local master.
- s. 106 (1) (c), amended 5.—(1) Clause *c* of subsection 1 of section 106 of the said Act is amended by inserting after “officers” in the first line “other than masters”.
- s. 106 (2), amended (2) Subsection 2 of the said section 106 is amended by inserting after “officer” in the second line “other than a master”.
- s. 114 (1) (e), re-enacted 6.—(1) Clause *e* of subsection 1 of section 114 of the said Act is repealed and the following substituted therefor:
- (e) the Senior Master.
- s. 114 (10) (f), amended (2) Clause *f* of subsection 10 of the said section 114 is amended by striking out “Master of the Supreme Court, or any officer sitting for him” in the first and second lines and inserting in lieu thereof “masters”.
- s. 118 (3), amended 7. Subsection 3 of section 118 of the said Act is amended by adding at the end thereof “and where a claim for alimony or for the maintenance or custody of children is joined with a petition for divorce, the local judges of the High Court have the same jurisdiction and authorities to deal with such claim as may be exercised by the Supreme Court or a judge thereof”.
- Commencement 8.—(1) This Act, except section 7, comes into force on a day to be named by proclamation of the Lieutenant Governor.
- Idem (2) Section 7 shall be deemed to have come into force on the 1st day of July, 1971.
- Short title 9. This Act may be cited as *The Judicature Amendment Act, 1975*.

An Act to amend
The Judicature Act

1st Reading

May 22nd, 1975

2nd Reading

May 27th, 1975

3rd Reading

May 27th, 1975

THE HON. J. T. CLEMENT
Attorney General

5TH SESSION, 29TH LEGISLATURE, ONTARIO
24 ELIZABETH II, 1975

**An Act to enable the establishment
of a Project for the better Administration
of Courts in the Region of Central West**

THE HON. J. T. CLEMENT
Attorney General

TORONTO

PRINTED BY J. C. THATCHER, QUEEN'S PRINTER FOR ONTARIO

EXPLANATORY NOTE

The purpose of the Bill is to provide a vehicle for developing administrative methods and services for the courts in a selected region in the light of the Ontario Law Reform Commission's Report on Administration of Ontario Courts, before applying the reforms to the whole of Ontario.

The selected region comprises the counties of Brant, Dufferin and Wellington and the regional municipalities of Haldimand-Norfolk, Halton, Hamilton-Wentworth, Niagara and Waterloo.

BILL 80

1975

**An Act to enable the establishment
of a Project for the better Administration
of Courts in the Region of Central West**

HER MAJESTY, by and with the advice and consent of the Legislative Assembly of the Province of Ontario, enacts as follows:

1. In this Act,

Interpre-
tation

- (a) "Advisory Committee" means the Attorney General's Advisory Committee, Central West established under section 3;
- (b) "courts" means the Supreme Court, county courts, provincial courts, small claims courts and other courts of record;
- (c) "project" means the developmental project referred to in section 2;
- (d) "Region" means the Region of Central West, composed of the counties of Brant, Dufferin and Wellington and the judicial districts of Haldimand, Norfolk, Halton, Hamilton-Wentworth, Niagara North, Niagara South and Waterloo.

2. The purpose of this Act is to enable the establishment of a developmental project in the Region for the central co-ordination of the administrative facilities and services of the courts in the Region and for the better operation of the said courts, subject to the traditional independence of judges respecting matters bearing directly on the adjudication of matters coming before them.

Purpose of
Act

3.—(1) There shall be an advisory committee to be known as the Attorney General's Advisory Committee, Central West composed of seven persons of whom one shall be the Chief Justice of Ontario, or his nominee, one shall

Attorney
General's
Advisory
Committee,
Central West

be the Chief Judge of the County and District Courts, or his nominee, one shall be the chief judge of the Provincial Courts (Family Division), or his nominee, one shall be the chief judge of the Provincial Courts (Criminal Division), or his nominee, two shall be members of the Law Society of Upper Canada engaged in active practice in the Region who shall be appointed by the Attorney General, and one shall be the Deputy Attorney General who shall be chairman.

**Vice-
chairman**

(2) The Deputy Attorney General may designate a member of the Committee who shall act as chairman during the absence of the Deputy Attorney General.

Duties

(3) The Advisory Committee shall advise and make recommendations to the Attorney General on any matter concerning the project and its implementation or operation that the Advisory Committee considers advisable or that is referred to it by the Attorney General.

Regulations

4.—(1) The Lieutenant Governor in Council, on the recommendation of the Advisory Committee, may make such regulations as are considered necessary and desirable for the establishment and operation of the project and, without restricting the generality of the foregoing may, for such purpose, make regulations,

- (a) providing for the sittings of courts in the Region;
- (b) providing for the taxation in the Region of such costs as are otherwise by law required to be taxed by a taxing officer at Toronto;
- (c) providing for holidays and vacations in respect of court business different from those otherwise fixed by law;
- (d) governing the establishment and maintenance of lists of cases to be tried and the bringing on for trial of cases on the list;
- (e) providing for the appointment of one or more persons as directors of court administration in the Region and assigning powers and duties to the director of court administration, for the purposes of the project including, but without restricting the generality of the foregoing,
 - (i) the power to authorize and direct stenographic reporters, court reporters and special examiners of courts in the Region to perform

their duties in any part of the Region as the director directs,

- (ii) the power to assign accommodation for the holding of trials and other hearings of courts in the Region at any place in the Region,
- (iii) the duty of consultation and co-operation with the Chief Justice, chief judges and judges in the conduct of the business of the court and providing for the procedures to be followed for the purposes of consultation and co-operation.

(2) Any regulation made under subsection 1 may be ^{Idem} general or particular in its application.

(3) Where a regulation made under subsection 1 is in ^{Conflict} conflict with a provision of any other Act or of the rules of any court, the regulation shall prevail.

5. This Act is repealed on the 31st day of July, 1977. ^{Repeal}

6. This Act comes into force on the day it receives Royal ^{Commence-} Assent. ^{ment}

7. This Act may be cited as *The Administration of Courts* ^{Short title} *Project Act, 1975.*

An Act to enable the establishment of a
Project for the better Administration of
Courts in the Region of Central West

1st Reading

May 22nd, 1975

2nd Reading

3rd Reading

THE HON. J. T. CLEMENT
Attorney General

(Government Bill)

BILL 80

5TH SESSION, 29TH LEGISLATURE, ONTARIO
24 ELIZABETH II, 1975

An Act to enable the establishment of a Project for the better Administration of Courts in the Region of Central West

THE HON. J. T. CLEMENT
Attorney General

TORONTO

PRINTED BY J. C. THATCHER, QUEEN'S PRINTER FOR ONTARIO

BILL 80

1975

**An Act to enable the establishment
of a Project for the better Administration
of Courts in the Region of Central West**

HER MAJESTY, by and with the advice and consent of the Legislative Assembly of the Province of Ontario, enacts as follows:

1. In this Act,

**Interpre-
tation**

- (a) "Advisory Committee" means the Attorney General's Advisory Committee, Central West established under section 3;
- (b) "courts" means the Supreme Court, county courts, provincial courts, small claims courts and other courts of record;
- (c) "project" means the developmental project referred to in section 2;
- (d) "Region" means the Region of Central West, composed of the counties of Brant, Dufferin and Wellington and the judicial districts of Haldimand, Norfolk, Halton, Hamilton-Wentworth, Niagara North, Niagara South and Waterloo.

2. The purpose of this Act is to enable the establishment of a developmental project in the Region for the central co-ordination of the administrative facilities and services of the courts in the Region and for the better operation of the said courts, subject to the traditional independence of judges respecting matters bearing directly on the adjudication of matters coming before them.

**Purpose of
Act**

3.—(1) There shall be an advisory committee to be known as the Attorney General's Advisory Committee, Central West composed of seven persons of whom one shall be the Chief Justice of Ontario, or his nominee, one shall

**Attorney
General's
Advisory
Committee,
Central West**

be the Chief Judge of the County and District Courts, or his nominee, one shall be the chief judge of the Provincial Courts (Family Division), or his nominee, one shall be the chief judge of the Provincial Courts (Criminal Division), or his nominee, two shall be members of the Law Society of Upper Canada engaged in active practice in the Region who shall be appointed by the Attorney General, and one shall be the Deputy Attorney General who shall be chairman.

Vice-
chairman

(2) The Deputy Attorney General may designate a member of the Committee who shall act as chairman during the absence of the Deputy Attorney General.

Duties

(3) The Advisory Committee shall advise and make recommendations to the Attorney General on any matter concerning the project and its implementation or operation that the Advisory Committee considers advisable or that is referred to it by the Attorney General.

Regulations

4.—(1) The Lieutenant Governor in Council, on the recommendation of the Advisory Committee, may make such regulations as are considered necessary and desirable for the establishment and operation of the project and, without restricting the generality of the foregoing may, for such purpose, make regulations,

- (a) providing for the sittings of courts in the Region;
- (b) providing for the taxation in the Region of such costs as are otherwise by law required to be taxed by a taxing officer at Toronto;
- (c) providing for holidays and vacations in respect of court business different from those otherwise fixed by law;
- (d) governing the establishment and maintenance of lists of cases to be tried and the bringing on for trial of cases on the list;
- (e) providing for the appointment of one or more persons as directors of court administration in the Region and assigning powers and duties to the director of court administration, for the purposes of the project including, but without restricting the generality of the foregoing,
 - (i) the power to authorize and direct stenographic reporters, court reporters and special examiners of courts in the Region to perform

their duties in any part of the Region as the director directs,

- (ii) the power to assign accommodation for the holding of trials and other hearings of courts in the Region at any place in the Region,
- (iii) the duty of consultation and co-operation with the Chief Justice, chief judges and judges in the conduct of the business of the court and providing for the procedures to be followed for the purposes of consultation and co-operation.

(2) Any regulation made under subsection 1 may be ^{Idem} general or particular in its application.

(3) Where a regulation made under subsection 1 is in ^{Conflict} conflict with a provision of any other Act or of the rules of any court, the regulation shall prevail.

5. This Act is repealed on the 31st day of July, 1977. ^{Repeal}

6. This Act comes into force on the day it receives Royal ^{Commence-} Assent. ^{ment}

7. This Act may be cited as *The Administration of Courts* ^{Short title} *Project Act, 1975.*

An Act to enable the establishment of a
Project for the better Administration of
Courts in the Region of Central West

1st Reading

May 22nd, 1975

2nd Reading

May 29th, 1975

3rd Reading

May 29th, 1975

THE HON. J. T. CLEMENT
Attorney General

5TH SESSION, 29TH LEGISLATURE, ONTARIO
24 ELIZABETH II, 1975

**An Act to erect the Town of Thorold
into a City Municipality**

THE HON. W. D. McKEOUGH
Treasurer of Ontario and Minister of Economics and
Intergovernmental Affairs

EXPLANATORY NOTE

The Bill provides for the erecting of the Town of Thorold into a city municipality on the 1st day of July, 1975, and for matters consequent thereon.

BILL 81

1975

An Act to erect the Town of Thorold into a City Municipality

HER MAJESTY, by and with the advice and consent of the Legislative Assembly of the Province of Ontario, enacts as follows:

1. On the 1st day of July, 1975, The Corporation of the Town of Thorold is erected into a city municipality bearing the name of The Corporation of the City of Thorold. Town of Thorold erected into city municipality
2. Sections 17, 19 and 22 of *The Municipal Act* apply *mutatis mutandis* in respect of the erecting of the Town of Thorold into a city municipality. Application of R.S.O. 1970, c. 284, ss. 17, 19, 22
3. A reference in any general or special Act to The Corporation of the Town of Thorold or to the Town of Thorold shall be deemed to be a reference to The Corporation of the City of Thorold and to the City of Thorold, respectively. References in other Acts
4. This Act comes into force on the day it receives Royal Assent. Commencement
5. This Act may be cited as *The City of Thorold Act, 1975*. Short title

An Act to erect
the Town of Thorold into a
City Municipality

1st Reading

May 23rd, 1975

2nd Reading

3rd Reading

THE HON. W. D. McKEOUGH
Treasurer of Ontario and
Minister of Economics and
Intergovernmental Affairs

(Government Bill)

BILL 81

5TH SESSION, 29TH LEGISLATURE, ONTARIO
24 ELIZABETH II, 1975

An Act to erect the Town of Thorold into a City Municipality

THE HON. W. D. McKEOUGH
Treasurer of Ontario and Minister of Economics and
Intergovernmental Affairs

T O R O N T O

PRINTED BY J. C. THATCHER, QUEEN'S PRINTER FOR ONTARIO

BILL 81

1975

An Act to erect the Town of Thorold into a City Municipality

HER MAJESTY, by and with the advice and consent of the Legislative Assembly of the Province of Ontario, enacts as follows:

1. On the 1st day of July, 1975, The Corporation of the Town of Thorold is erected into a city municipality bearing the name of The Corporation of the City of Thorold.

Town of
Thorold
erected
into city
muni-
cipality

2. Sections 17, 19 and 22 of *The Municipal Act* apply *mutatis mutandis* in respect of the erecting of the Town of Thorold into a city municipality.

Application
of
R.S.O. 1970,
c. 284,
ss. 17, 19, 22

3. A reference in any general or special Act to The Corporation of the Town of Thorold or to the Town of Thorold shall be deemed to be a reference to The Corporation of the City of Thorold and to the City of Thorold, respectively.

References
in other
Acts

4. This Act comes into force on the day it receives Royal Assent.

Commence-
ment

5. This Act may be cited as *The City of Thorold Act, 1975*.

Short title

An Act to erect
the Town of Thorold into a
City Municipality

1st Reading

May 23rd, 1975

2nd Reading

May 27th, 1975

3rd Reading

May 27th, 1975

THE HON. W. D. McKEOUGH
Treasurer of Ontario and
Minister of Economics and
Intergovernmental Affairs

5TH SESSION, 29TH LEGISLATURE, ONTARIO
24 ELIZABETH II, 1975

An Act to amend The Ontario Human Rights Code

MR. BOUNSALL

TORONTO

PRINTED BY J. C. THATCHER, QUEEN'S PRINTER FOR ONTARIO

EXPLANATORY NOTE

The purpose of the Bill is to prevent discrimination in employment on the basis of a physical disability, criminal record or political affiliation.

An Act to amend The Ontario Human Rights Code

HER MAJESTY, by and with the advice and consent of the Legislative Assembly of the Province of Ontario, enacts as follows:

- 1.—(1) Subsection 1 of section 4 of *The Ontario Human Rights Code*, being chapter 318 of the Revised Statutes of Ontario, 1970, as re-enacted by the Statutes of Ontario, 1972, chapter 119, section 5, is amended by inserting after "status" in the twenty-second line "a physical disability, criminal record or political affiliation". s. 4 (1),
amended
- (2) Subsection 2 of the said section 4 is amended by inserting after "status" in the fifth line "a physical disability, criminal record or political affiliation". s. 4 (2),
amended
- (3) Subsection 3 of the said section 4 is amended by inserting after "status" in the ninth line "a physical disability, criminal record or political affiliation". s. 4 (3),
amended
- (4) Subsection 5 of the said section 4 is amended by inserting after "status" in the third line "a physical disability, criminal record or political affiliation". s. 4 (5),
amended
- (5) The said section 4, as amended by the Statutes of Ontario, 1974, chapter 73, sections 2 and 3, is further amended by adding thereto the following subsection: s. 4,
amended
 - (6a) The provisions of this section do not apply where the nature or extent of the physical disability would reasonably preclude the performance of the particular employment. Application
of section
- 2.—(1) Subsection 1 of section 4a of the said Act, as enacted by the Statutes of Ontario, 1972, chapter 119, section 6, is amended by inserting after "status" in the fourth line "a physical disability, criminal record or political affiliation". s. 4a (1),
amended

s. 4a (2),
amended

- (2) Subsection 2 of the said section 4a is amended by inserting after "status" in the fourth line "a physical disability, criminal record or political affiliation".

s. 6a,
amended

3. Section 6a of the said Act, as enacted by the Statutes of Ontario, 1972, chapter 119, section 7, is amended by inserting after "status" in the eighth line "physical disabilities, criminal record or political affiliations".

s. 9 (a, c),
amended

4. Clauses a and c of section 9 of the said Act, as re-enacted by the Statutes of Ontario, 1972, chapter 119, section 9, are amended by inserting after "status" in the fourth line, in each instance, "physical disabilities, criminal record or political affiliations".

s. 19,
amended

5. Section 19 of the said Act, as amended by the Statutes of Ontario, 1972, chapter 119, section 14, is further amended by adding thereto the following clause:

(ba) "criminal record" means a record of a conviction under the *Criminal Code* (Canada).

R.S.C. 1970,
c. C-34

Commence-
ment

6. This Act comes into force on the day it receives Royal Assent.

Short title

7. This Act may be cited as *The Ontario Human Rights Code Amendment Act, 1975*.

An Act to amend
The Ontario Human Rights Code

1st Reading

May 23rd, 1975

2nd Reading

3rd Reading

MR. BOUNSALL

(Private Member's Bill)

5TH SESSION, 29TH LEGISLATURE, ONTARIO
24 ELIZABETH II, 1975

**An Act to amend
The Municipal Tax Assistance Act**

THE HON. W. D. McKEOUGH
Treasurer of Ontario and Minister of Economics and
Intergovernmental Affairs

EXPLANATORY NOTES

SECTION 1.—Subsection 1. The subsections being repealed provide for the valuation of all provincial property in a municipality by the Ministry of Treasury, Economics and Intergovernmental Affairs; this function is now carried out by the Ministry of Revenue under *The Assessment Act*.

Subsection 2. The effect of the amendment is to make eligible for a payment under the Act, property held for the purpose of a housing project.

SECTION 2. Complementary to subsection 1 of section 1 of the Bill in relation to appeals in respect of the valuation of provincial property by the Ministry of Treasury, Economics and Intergovernmental Affairs.

SECTION 3.—Subsections 1 and 2. Complementary to subsection 1 of section 1 of the Bill by deleting the reference to the value determined under the Act for the purpose of calculating the amount of payments that may be made.

Subsection 3. The amendments are to make it clear that the charges and taxes specified may be paid in respect of provincial property.

BILL 83

1975

An Act to amend The Municipal Tax Assistance Act

HER MAJESTY, by and with the advice and consent of the Legislative Assembly of the Province of Ontario, enacts as follows:

- 1.—(1) Subsections 1, 2, 3, 4 and 5 of section 3 of *The Municipal Tax Assistance Act*, being chapter 292 of the Revised Statutes of Ontario, 1970, are repealed. s. 3 (1-5),
repealed
- (2) Subsection 6 of the said section 3 is amended by striking out "or acquired or held for the purpose of a housing project" in the ninth and tenth lines. s. 3 (6),
amended
2. Section 4 of the said Act is repealed. s. 4,
repealed
- 3.—(1) Subsection 1 of section 5 of the said Act is amended by striking out "based on the value determined for such provincial property in the preceding year under this Act, would produce" in the seventh and eighth lines and inserting in lieu thereof "would produce on the value of such provincial property". s. 5 (1),
amended
- (2) Subsection 2 of the said section 5 is amended by striking out "based on the value determined for such provincial property in the preceding year under this Act, would produce" in the sixth, seventh and eighth lines and inserting in lieu thereof "would produce on the value of such provincial property". s. 5 (2),
amended
- (3) The said section 5 is amended by adding thereto the following subsections: s. 5,
amended
 - (6) The Crown in right of Ontario or any Crown agency may, in respect of any provincial property, pay charges imposed under section 362 of *The Municipal Act*. Sewer and
waterworks
rates
R.S.O. 1970,
c. 284
 - (7) The Crown in right of Ontario or any Crown agency may, in respect of any provincial property, pay charges Garbage
rates

R.S.O. 1970,
c. 284

Telephone
and
telegraph
company
taxes

s. 5a,
enacted

Payment
by
Ministry

Commence-
ment

Short title

imposed under paragraph 78 of subsection 1 of section 354 of
The Municipal Act.

(8) A Crown agency that operates a telephone and
telegraph system may, in respect of the system, pay the
tax levied under section 304a of *The Municipal Act*.

4. The said Act is amended by adding thereto the following
section:

5a. Notwithstanding subsections 1 and 2 of section 5, the
Ministry may make a payment under this Act on behalf of
another ministry or a Crown agency and such payment may
be recovered by the Ministry from the ministry or Crown
agency on whose behalf such payment was made.

5. This Act comes into force on the day it receives Royal Assent.

6. This Act may be cited as *The Municipal Tax Assistance
Amendment Act, 1975*.

SECTION 4. Authority is conferred on the Ministry of Treasury, Economics and Intergovernmental Affairs to make payments on behalf of other ministries or on behalf of Crown agencies and to recover the moneys so paid on their behalf.

An Act to amend
The Municipal Tax Assistance Act

1st Reading

May 27th, 1975

2nd Reading

3rd Reading

THE HON. W. D. McKEOUGH
Treasurer of Ontario and
Minister of Economics and
Intergovernmental Affairs

(Government Bill)

BILL 83

5TH SESSION, 29TH LEGISLATURE, ONTARIO
24 ELIZABETH II, 1975

An Act to amend The Municipal Tax Assistance Act

THE HON. W. D. McKEOUGH
Treasurer of Ontario and Minister of Economics and
Intergovernmental Affairs

An Act to amend The Municipal Tax Assistance Act

HER MAJESTY, by and with the advice and consent of the Legislative Assembly of the Province of Ontario, enacts as follows:

- 1.—(1) Subsections 1, 2, 3, 4 and 5 of section 3 of *The Municipal Tax Assistance Act*, being chapter 292 of the Revised Statutes of Ontario, 1970, are repealed. s. 3 (1-5),
repealed
- (2) Subsection 6 of the said section 3 is amended by striking out "or acquired or held for the purpose of a housing project" in the ninth and tenth lines. s. 3 (6),
amended
2. Section 4 of the said Act is repealed. s. 4,
repealed
- 3.—(1) Subsection 1 of section 5 of the said Act is amended by striking out "based on the value determined for such provincial property in the preceding year under this Act, would produce" in the seventh and eighth lines and inserting in lieu thereof "would produce on the value of such provincial property". s. 5 (1),
amended
- (2) Subsection 2 of the said section 5 is amended by striking out "based on the value determined for such provincial property in the preceding year under this Act, would produce" in the sixth, seventh and eighth lines and inserting in lieu thereof "would produce on the value of such provincial property". s. 5 (2),
amended
- (3) The said section 5 is amended by adding thereto the following subsections: s. 5,
amended
 - (6) The Crown in right of Ontario or any Crown agency may, in respect of any provincial property, pay charges imposed under section 362 of *The Municipal Act*. Sewer and
waterworks
rates
R.S.O. 1970,
c. 284
 - (7) The Crown in right of Ontario or any Crown agency may, in respect of any provincial property, pay charges Garbage
rates

R.S.O. 1970,
c. 284

Telephone
and
telegraph
company
taxes

s. 5a,
enacted

Payment
by
Ministry

Commence-
ment

Short title

imposed under paragraph 78 of subsection 1 of section 354 of *The Municipal Act*.

(8) A Crown agency that operates a telephone and telegraph system may, in respect of the system, pay the tax levied under section 304a of *The Municipal Act*.

- 4.** The said Act is amended by adding thereto the following section:

5a. Notwithstanding subsections 1 and 2 of section 5, the Ministry may make a payment under this Act on behalf of another ministry or a Crown agency and such payment may be recovered by the Ministry from the ministry or Crown agency on whose behalf such payment was made.

- 5.** This Act comes into force on the day it receives Royal Assent.

- 6.** This Act may be cited as *The Municipal Tax Assistance Amendment Act, 1975*.

An Act to amend
The Municipal Tax Assistance Act

1st Reading

May 27th, 1975

2nd Reading

June 5th, 1975

3rd Reading

June 5th, 1975

THE HON. W. D. McKEOUGH
Treasurer of Ontario and
Minister of Economics and
Intergovernmental Affairs

5TH SESSION, 29TH LEGISLATURE, ONTARIO
24 ELIZABETH II, 1975

**An Act to amend
The Ontario Municipal Employees Retirement System Act**

THE HON. W. D. McKEOUGH
Treasurer of Ontario and Minister of Economics and
Intergovernmental Affairs

EXPLANATORY NOTE

The subsection being repealed requires the approval of the Ministry to a by-law or resolution, under which an employer has elected to participate in the System, being amended or repealed.

BILL 84

1975

**An Act to amend
The Ontario Municipal Employees
Retirement System Act**

HER MAJESTY, by and with the advice and consent of the Legislative Assembly of the Province of Ontario, enacts as follows:

1. Subsection 2 of section 14 of *The Ontario Municipal Employees Retirement System Act*, being chapter 324 of the Revised Statutes of Ontario, 1970, is repealed. s. 14 (2),
repealed
2. This Act comes into force on the day it receives Royal Assent. Commence-
ment
3. This Act may be cited as *The Ontario Municipal Employees Retirement System Amendment Act, 1975*. Short title

An Act to amend
The Ontario Municipal Employees
Retirement System Act

1st Reading

May 27th, 1975

2nd Reading

3rd Reading

THE HON. W. D. McKEOUGH
Treasurer of Ontario and
Minister of Economics and
Intergovernmental Affairs

(Government Bill)

BILL 84

5TH SESSION, 29TH LEGISLATURE, ONTARIO
24 ELIZABETH II, 1975

An Act to amend The Ontario Municipal Employees Retirement System Act

THE HON. W. D. McKEOUGH
Treasurer of Ontario and Minister of Economics and
Intergovernmental Affairs

BILL 84

1975

**An Act to amend
The Ontario Municipal Employees
Retirement System Act**

HER MAJESTY, by and with the advice and consent of the Legislative Assembly of the Province of Ontario, enacts as follows:

1. Subsection 2 of section 14 of *The Ontario Municipal Employees Retirement System Act*, being chapter 324 of the Revised Statutes of Ontario, 1970, is repealed. s. 14 (2),
repealed
2. This Act comes into force on the day it receives Royal Assent. Commence-
ment
3. This Act may be cited as *The Ontario Municipal Employees Retirement System Amendment Act, 1975*. Short title

An Act to amend
The Ontario Municipal Employees
Retirement System Act

1st Reading

May 27th, 1975

2nd Reading

June 5th, 1975

3rd Reading

June 5th, 1975

THE HON. W. D. McKEOUGH
Treasurer of Ontario and
Minister of Economics and
Intergovernmental Affairs

5TH SESSION, 29TH LEGISLATURE, ONTARIO
24 ELIZABETH II, 1975

**An Act to amend
The Municipal Elderly Resident's Assistance Act, 1973**

THE HON. W. D. McKEOUGH
Treasurer of Ontario and Minister of Economics and
Intergovernmental Affairs

EXPLANATORY NOTES

SECTION 1.—Subsection 1. The words added are included in the definition of "owner" and are designed to make it clear that owners of condominium property are eligible to receive a tax credit under the Act.

Subsection 2. One of the conditions for eligibility for a tax credit is that the owner occupy the property as his personal residence; the amendment defines that expression.

SECTION 2. Provision is made for the continuation of a tax credit to a surviving spouse who would otherwise qualify except for the minimum period of being shown as the assessed owner.

BILL 85

1975

**An Act to amend
The Municipal Elderly Resident's
Assistance Act, 1973**

HER MAJESTY, by and with the advice and consent of the Legislative Assembly of the Province of Ontario, enacts as follows:

1.—(1) Clause *b* of section 1 of *The Municipal Elderly Resident's Assistance Act, 1973*, being chapter 154, is amended by adding at the end thereof "and includes an owner within the meaning of *The Condominium Act*". s. 1 (b),
amended

(2) The said section 1 is amended by adding thereto the following clause: s. 1,
amended

(c) "personal residence" means the residence ordinarily inhabited by the owner.

2. Section 2 of the said Act is amended by adding thereto the following subsection: s. 2,
amended

(3) A by-law passed by the council of a municipality under this Act may provide for the continuation of such tax credits to the surviving spouse of a deceased person to whom a tax credit was allowed, if such spouse otherwise qualifies for such credit except for the provisions of clause *c* of subsection 1. Continuation
of tax credit
to surviving
spouse

3. This Act comes into force on the day it receives Royal Assent. Commence-
ment

4. This Act may be cited as *The Municipal Elderly Resident's Assistance Amendment Act, 1975*. Short title

An Act to amend
The Municipal Elderly Resident's
Assistance Act, 1973

1st Reading

May 27th, 1975

2nd Reading

3rd Reading

THE HON. W. D. McKEOUGH
Treasurer of Ontario and
Minister of Economics and
Intergovernmental Affairs

(*Government Bill*)

BILL 85

5TH SESSION, 29TH LEGISLATURE, ONTARIO
24 ELIZABETH II, 1975

An Act to amend The Municipal Elderly Resident's Assistance Act, 1973

THE HON. W. D. McKEOUGH
Treasurer of Ontario and Minister of Economics and
Intergovernmental Affairs

TORONTO

PRINTED BY J. C. THATCHER, QUEEN'S PRINTER FOR ONTARIO

BILL 85

1975

**An Act to amend
The Municipal Elderly Resident's
Assistance Act, 1973**

HER MAJESTY, by and with the advice and consent of the Legislative Assembly of the Province of Ontario, enacts as follows:

- 1.—(1) Clause *b* of section 1 of *The Municipal Elderly Resident's Assistance Act, 1973*, being chapter 154, is amended by adding at the end thereof "and includes an owner within the meaning of *The Condominium Act*". s. 1 (b),
amended
- (2) The said section 1 is amended by adding thereto the s. 1,
amended following clause:
 - (c) "personal residence" means the residence ordinarily inhabited by the owner.
2. Section 2 of the said Act is amended by adding thereto the s. 2,
amended following subsection:
 - (3) A by-law passed by the council of a municipality under this Act may provide for the continuation of such tax credits to the surviving spouse of a deceased person to whom a tax credit was allowed, if such spouse otherwise qualifies for such credit except for the provisions of clause *c* of subsection 1. Continuation
of tax credit
to surviving
spouse
3. This Act comes into force on the day it receives Royal Assent. Commence-
ment
4. This Act may be cited as *The Municipal Elderly Resident's Assistance Amendment Act, 1975*. Short title

An Act to amend
The Municipal Elderly Resident's
Assistance Act, 1973

1st Reading

May 27th, 1975

2nd Reading

June 5th, 1975

3rd Reading

June 5th, 1975

THE HON. W. D. McKEOUGH
Treasurer of Ontario and
Minister of Economics and
Intergovernmental Affairs

5TH SESSION, 29TH LEGISLATURE, ONTARIO
24 ELIZABETH II, 1975

**An Act to provide for an Ombudsman to investigate
Administrative Decisions and Acts of Officials of the
Government of Ontario and its Agencies**

THE HON. J. T. CLEMENT
Attorney General

TORONTO

PRINTED BY J. C. THATCHER, QUEEN'S PRINTER FOR ONTARIO

EXPLANATORY NOTE

The Bill provides for an Ombudsman to investigate administrative decisions and acts of officials of the Government of Ontario and its agencies.

The provisions of the Bill are self-explanatory.

BILL 86

1975

An Act to provide for an Ombudsman to investigate Administrative Decisions and Acts of Officials of the Government of Ontario and its Agencies

HER MAJESTY, by and with the advice and consent of the Legislative Assembly of the Province of Ontario, enacts as follows:

1. In this Act,

Interpre-
tation

(a) "governmental organization" means a Ministry, commission, board or other administrative unit of the Government of Ontario, and includes any agency thereof;

(b) "minister" means a member of the Executive Council.

2. There shall be appointed, as an officer of the Legislature, an Ombudsman to exercise the powers and perform the duties prescribed by this Act. Ombudsman

3. The Ombudsman shall be appointed by the Lieutenant Governor in Council on the address of the Assembly. Appoint-
ment

4.—(1) Subject to this Act, the Ombudsman shall hold office for a term of ten years, but is removable at any time for cause by the Lieutenant Governor on the address of the Assembly. Tenure of
office and
removal

(2) The Ombudsman may be reappointed for a further term or terms but shall retire upon attaining the age of sixty-five years. Reappoint-
ment
and
retirement

5.—(1) The Ombudsman shall devote himself exclusively to the duties of his office and shall not hold any other office under the Crown or engage in any other employment. Nature of
employment

(2) *The Public Service Act* and *The Public Service Superannuation Act* do not apply to the Ombudsman. Idem
R.S.O. 1970,
cc. 386, 387

- Salary** **6.**—(1) The Ombudsman shall be paid a salary to be fixed by the Lieutenant Governor in Council.
- Idem** (2) The salary of the Ombudsman shall not be reduced except on address of the Assembly.
- Expenses** (3) The Ombudsman is entitled to be paid reasonable travelling and living expenses while absent from his ordinary place of residence in the exercise of his functions under this Act.
- Pension**
1973, c. 152 (4) Part II of *The Legislative Assembly Retirement Allowances Act, 1973*, except sections 15 and 16, subsection 5 of section 18 and clause *a* of subsection 2 of section 19, applies, *mutatis mutandis*, to the Ombudsman in the same manner as if he were a member of the Legislative Assembly and for the purpose,
- (a) “average annual remuneration” means the average annual salary of the Ombudsman during any five years of his service, which years need not be consecutive, during which his salary was highest; and
- (b) “remuneration” means the salary of the Ombudsman.
- Temporary Ombudsman** **7.** In the event of the death or resignation of the Ombudsman while the Legislature is not in session or if he is unable or neglects to perform the functions of his office, the Lieutenant Governor in Council may appoint a temporary Ombudsman, to hold office for a term of not more than six months, who shall, while in such office, have the powers and duties and perform the functions of the Ombudsman and shall be paid such salary or other remuneration and expenses as the Lieutenant Governor in Council may fix.
- Staff** **8.**—(1) Subject to the approval of the Lieutenant Governor in Council, the Ombudsman may employ such officers and other employees as the Ombudsman considers necessary for the efficient operation of his office and may determine their salary and remuneration and terms and conditions of employment.
- Benefits** (2) The employee benefits applicable from time to time to the public servants of Ontario with respect to,
- (a) cumulative vacation and sick leave credits for regular attendance and payments in respect of such credits;

- (b) plans for group life insurance, medical-surgical insurance or long-term income protection; and
- (c) the granting of leave of absence,

apply to the permanent and full-time employees of the Ombudsman and where such benefits are provided for in regulations made under *The Public Service Act*, the Ombudsman, or any person authorized in writing by him, may exercise the powers and duties of a Minister or Deputy Minister or of the Civil Service Commission under such regulations. R.S.O. 1970,
c. 386

(3) *The Public Service Superannuation Act* applies to the permanent and full-time probationary staff of the Ombudsman as though the Ombudsman were a commission designated by the Lieutenant Governor in Council under section 27 of that Act. Employees' superannuation benefits
R.S.O. 1970,
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9. The Ombudsman may lease such premises and acquire such equipment and supplies as are necessary for the efficient operation of his office. Premises and supplies

10. The salary of the Ombudsman and the expenses required for the operation of his office are payable, until the 31st day of March, 1976, out of the Consolidated Revenue Fund and thereafter out of moneys appropriated therefor by the Legislature. Salary and expenses

11. The accounts and financial transactions of the office of the Ombudsman shall be audited annually by the Provincial Auditor. Audit

12. The Ombudsman shall report annually upon the affairs of his office to the Speaker of the Assembly who shall cause the report to be laid before the Assembly if it is in session or, if not, at the next ensuing session. Annual report

13.—(1) Before commencing the duties of his office, the Ombudsman shall take an oath, to be administered by the Speaker of the Assembly, that he will faithfully and impartially exercise the functions of his office and that he will not, except in accordance with subsection 2, disclose any information received by him as Ombudsman. Oath of office and secrecy

(2) The Ombudsman may disclose in any report made by him under this Act such matters as in his opinion ought to be disclosed in order to establish grounds for his conclusions and recommendations. Disclosure

Application of Act : **14.** This Act does not apply,

- (a) to judges or to the functions of any court; or
- (b) to deliberations and proceedings of the Executive Council or any committee thereof.

Function of Ombudsman **15.—**(1) The function of the Ombudsman is to investigate any decision or recommendation made or any act done or omitted in the course of the administration of a governmental organization and affecting any person or body of persons in his or its personal capacity.

Investigation on complaint or otherwise (2) The Ombudsman may make any such investigation either on a complaint made to him by any person affected or of his own motion.

Powers paramount (3) The powers conferred on the Ombudsman by this Act may be exercised notwithstanding any provision in any Act to the effect that any such decision, recommendation, act or omission is final, or that no appeal lies in respect thereof, or that no proceeding or decision of the person or organization whose decision, recommendation, act or omission it is shall be challenged, reviewed, quashed or called in question.

Decisions not reviewable (4) Nothing in this Act empowers the Ombudsman to investigate any decision, recommendation, act or omission,

- (a) in respect of which there is, under any Act, a right of appeal or objection, or a right to apply for a hearing or review, on the merits of the case to any court, or to any tribunal constituted by or under any Act, until that right of appeal or objection or application has been exercised in the particular case, or until after any time for the exercise of that right has expired;
- (b) of any person acting as legal adviser to the Crown or acting as counsel to the Crown in relation to any proceedings.

Application to S.C.O. to determine jurisdiction (5) If any question arises whether the Ombudsman has jurisdiction to investigate any case or class of cases under this Act, he may, if he thinks fit, apply to the Supreme Court for a declaratory order determining the question.

Guidance rules **16.—**(1) The Assembly may make general rules for the guidance of the Ombudsman in the exercise of his functions under this Act.

(2) All rules made under this section shall be deemed to be regulations within the meaning of *The Regulations Act*. Idem
R.S.O. 1970,
c. 410

(3) Subject to this Act and any rules made under this section, the Ombudsman may determine his procedures. Procedures

17.—(1) Every complaint to the Ombudsman shall be made in writing. Mode of
complaint

(2) Notwithstanding any provision in any Act, where any letter written by an inmate of any provincial correctional institution or a patient in a provincial psychiatric facility is addressed to the Ombudsman it shall be immediately forwarded, unopened, to the Ombudsman by the person for the time being in charge of the institution or facility. To be
forwarded

18.—(1) If, in the course of the investigation of any complaint within his jurisdiction, it appears to the Ombudsman, Ombudsman
may
refuse to
investigate
complaint

(a) that under the law or existing administrative practice there is an adequate remedy for the complainant, whether or not he has availed himself of it; or

(b) that, having regard to all the circumstances of the case, any further investigation is unnecessary,

he may in his discretion refuse to investigate the matter further.

(2) Without limiting the generality of the powers conferred on the Ombudsman by this Act, the Ombudsman may in his discretion decide not to investigate, or, as the case may require, not to further investigate, any complaint if it relates to any decision, recommendation, act or omission of which the complainant has had knowledge for more than twelve months before the complaint is received by the Ombudsman, or, if in his opinion, Idem

(a) the subject-matter of the complaint is trivial;

(b) the complaint is frivolous or vexatious or is not made in good faith; or

(c) the complainant has not a sufficient personal interest in the subject-matter of the complaint.

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to be
informed

Proceedings
of
Ombudsman

19.—(1) Before investigating any matter, the Ombudsman shall inform the head of the governmental organization affected of his intention to make the investigation.

Investigation to be
in private

(2) Every investigation by the Ombudsman under this Act shall be conducted in private.

Where
hearing
necessary

(3) The Ombudsman may hear or obtain information from such persons as he thinks fit, and may make such inquiries as he thinks fit and it is not necessary for the Ombudsman to hold any hearing and no person is entitled as of right to be heard by the Ombudsman, but, if at any time during the course of an investigation, it appears to the Ombudsman that there may be sufficient grounds for his making any report or recommendation that may adversely affect any governmental organization or person, he shall give to that organization or person an opportunity to make representations respecting the adverse report or recommendation, either personally or by counsel.

May
consult
minister

(4) The Ombudsman may in his discretion, at any time during or after any investigation, consult any minister who is concerned in the matter of the investigation.

Must
consult
minister

(5) On the request of any minister in relation to any investigation, or in any case where any investigation relates to any recommendation made to a minister, the Ombudsman shall consult that minister after making the investigation and before forming a final opinion on any of the matters referred to in subsection 1 or 2 of section 22.

Breach of
duty or
misconduct

(6) If, during or after an investigation, the Ombudsman is of opinion that there is evidence of a breach of duty or of misconduct on the part of any officer or employee of any governmental organization, he may refer the matter to the appropriate authority.

Evidence

20.—(1) The Ombudsman may from time to time require any officer, employee or member of any governmental organization who in his opinion is able to give any information relating to any matter that is being investigated by the Ombudsman to furnish to him any such information, and to produce any documents or things which in the Ombudsman's opinion relate to any such matter and which may be in the possession or under the control of that person.

Examination under
oath

(2) The Ombudsman may summon before him and examine on oath,

(a) any complainant;

- (b) any person who is an officer or employee or member of any governmental organization and who, in the Ombudsman's opinion, is able to give any information mentioned in subsection 1; or
- (c) any other person who, in the Ombudsman's opinion, is able to give any information mentioned in subsection 1,

and for that purpose may administer an oath.

(3) Subject to subsection 4, no person who is bound by the provisions of any Act, other than *The Public Service Act*, to maintain secrecy in relation to, or not to disclose, any matter shall be required to supply any information to or answer any question put by the Ombudsman in relation to that matter, or to produce to the Ombudsman any document or thing relating to it, if compliance with that requirement would be in breach of the obligation of secrecy or non-disclosure.

Secrecy
R.S.O. 1970,
c. 386

(4) With the previous consent in writing of any complainant, any person to whom subsection 3 applies may be required by the Ombudsman to supply information or answer any question or produce any document or thing relating only to the complainant, and it is the duty of the person to comply with that requirement.

Idem

(5) Every person has the same privileges in relation to the giving of information, the answering of questions, and the production of documents and things as witnesses have in any court.

Privileges

(6) Except on the trial of any person for perjury in respect of his sworn testimony, no statement made or answer given by that or any other person in the course of any inquiry by or any proceedings before the Ombudsman is admissible in evidence against any person in any court or at any inquiry or in any other proceedings, and no evidence in respect of proceedings before the Ombudsman shall be given against any person.

Protection

(7) No person is liable to prosecution for an offence against any Act, other than this Act, by reason of his compliance with any requirement of the Ombudsman under this section.

Prosecution

(8) Where any person is required by the Ombudsman to attend before him for the purposes of this section, the person is entitled to the same fees, allowances, and expenses as if he were a witness in the Supreme Court, and the provisions of any Act, regulation or rule in that behalf apply accordingly.

Fees

Disclosure
of certain
matters not
to be
required

21.—(1) Where the Attorney General certifies that the giving of any information or the answering of any question or the production of any document or thing,

- (a) might interfere with or impede investigation or detection of offences;
- (b) might involve the disclosure of the deliberations of the Executive Council; or
- (c) might involve the disclosure of proceedings of the Executive Council or of any committee of the Executive Council, relating to matters of a secret or confidential nature, and would be injurious to the public interest,

the Ombudsman shall not require the information or answer to be given or, as the case may be, the document or thing to be produced.

Idem

(2) Subject to subsection 1, the rule of law which authorizes or requires the withholding of any document, or the refusal to answer any question, on the ground that the disclosure of the document or the answering of the question would be injurious to the public interest does not apply in respect of any investigation by or proceedings before the Ombudsman.

Procedure
after
investiga-
tion

22.—(1) This section applies in every case where, after making an investigation under this Act, the Ombudsman is of opinion that the decision, recommendation, act or omission which was the subject-matter of the investigation,

- (a) appears to have been contrary to law;
- (b) was unreasonable, unjust, oppressive, or improperly discriminatory, or was in accordance with a rule of law or a provision of any Act or a practice that is or may be unreasonable, unjust, oppressive, or improperly discriminatory;
- (c) was based wholly or partly on a mistake of law or fact; or
- (d) was wrong.

Idem

(2) This section also applies in any case where the Ombudsman is of opinion that in the making of the decision or recommendation, or in the doing or omission of the act, a discretionary power has been exercised for an improper purpose or on irrelevant grounds or on the taking into account

of irrelevant considerations, or that, in the case of a decision made in the exercise of any discretionary power, reasons should have been given for the decision.

(3) If in any case to which this section applies the Ombudsman is of opinion, Ombudsman's report and recommendations

- (a) that the matter should be referred to the appropriate authority for further consideration;
- (b) that the omission should be rectified;
- (c) that the decision should be cancelled or varied;
- (d) that any practice on which the decision, recommendation, act or omission was based should be altered;
- (e) that any law on which the decision, recommendation, act or omission was based should be reconsidered;
- (f) that reasons should have been given for the decision;
or
- (g) that any other steps should be taken,

the Ombudsman shall report his opinion, and his reasons therefor, to the appropriate governmental organization, and may make such recommendations as he thinks fit and he may request the governmental organization to notify him, within a specified time, of the steps, if any, that it proposes to take to give effect to his recommendations and the Ombudsman shall also send a copy of his report and recommendations to the minister concerned.

(4) If within a reasonable time after the report is made no action is taken which seems to the Ombudsman to be adequate and appropriate, the Ombudsman, in his discretion, after considering the comments, if any, made by or on behalf of any governmental organization affected, may send a copy of the report and recommendations to the Premier, and may thereafter make such report to the Assembly on the matter as he thinks fit. Where no appropriate action taken

(5) The Ombudsman shall attach to every report sent or made under subsection 4 a copy of any comments made by or on behalf of the governmental organization affected. Idem

23.—(1) Where, on any investigation following a complaint, the Ombudsman makes a recommendation under subsection 3 of section 22, and no action which seems to the Ombudsman to be adequate and appropriate is taken thereon Complainant to be informed of result of investigation

within a reasonable time, the Ombudsman shall inform the complainant of his recommendation, and may make such comments on the matter as he thinks fit.

Idem

(2) The Ombudsman shall in any case inform the complainant, in such manner and at such time as he thinks proper, of the result of the investigation.

Proceedings
not to be
questioned
or to be
subject to
review

24. No proceeding of the Ombudsman shall be held bad for want of form, and, except on the ground of lack of jurisdiction, no proceeding or decision of the Ombudsman is liable to be challenged, reviewed, quashed or called in question in any court.

Proceedings
privileged

25.—(1) No proceedings lie against the Ombudsman, or against any person holding any office or appointment under the Ombudsman, for anything he may do or report or say in the course of the exercise or intended exercise of his functions under this Act, unless it is shown that he acted in bad faith.

Idem

(2) The Ombudsman, and any such person as aforesaid, shall not be called to give evidence in any court, or in any proceedings of a judicial nature, in respect of anything coming to his knowledge in the exercise of his functions under this Act.

Idem

(3) Anything said or any information supplied or any document or thing produced by any person in the course of any inquiry by or proceedings before the Ombudsman under this Act is privileged in the same manner as if the inquiry or proceedings were proceedings in a court.

Power of
entry of
premises

26.—(1) For the purposes of this Act, the Ombudsman may at any time enter upon any premises occupied by any governmental organization and inspect the premises and carry out therein any investigation within his jurisdiction.

Notice of
entry

(2) Before entering any premises under subsection 1, the Ombudsman shall notify the head of the governmental organization occupying the premises of his purpose.

Notice to
desist

(3) The Attorney General may by notice to the Ombudsman exclude the application of subsection 1 to any specified premises or class of premises if he is satisfied that the exercise of the powers mentioned in subsection 1 might be prejudicial to the public interest.

Delegation
of powers

27.—(1) The Ombudsman may in writing delegate to any person holding any office under him any of his powers

under this Act except the power of delegation under this section and the power to make a report under this Act.

(2) Every delegation under this section is revocable at will and no such delegation prevents the exercise by the Ombudsman of any power so delegated. Delegation is revocable

(3) Every such delegation may be made subject to such restrictions and conditions as the Ombudsman thinks fit. Restrictions and conditions

(4) In the event that the Ombudsman by whom any such delegation is made ceases to hold office, the delegation continues in effect so long as the delegate continues in office or until revoked by a succeeding Ombudsman. Continuing effect of delegation

(5) Any person purporting to exercise any power of the Ombudsman by virtue of a delegation under this section shall, when required so to do, produce evidence of his authority to exercise the power. Evidence of obligation

28. Every person who,

Offences and penalties

- (a) without lawful justification or excuse, wilfully obstructs, hinders or resists the Ombudsman or any other person in the performance of his functions under this Act; or
- (b) without lawful justification or excuse, refuses or wilfully fails to comply with any lawful requirement of the Ombudsman or any other person under this Act; or
- (c) wilfully makes any false statement to or misleads or attempts to mislead the Ombudsman or any other person in the exercise of his functions under this Act,

is guilty of an offence and liable on summary conviction to a fine of not more than \$500 or to imprisonment for a term of not more than three months, or to both.

29. The provisions of this Act are in addition to the provisions of any other Act or rule of law under which any remedy or right of appeal or objection is provided for any person, or any procedure is provided for the inquiry into or investigation of any matter, and nothing in this Act limits or affects any such remedy or right of appeal or objection or procedure. Rights under Act do not affect other rights, etc.

Commence-
ment

30. This Act comes into force on a day to be named by proclamation of the Lieutenant Governor.

Short title

31. This Act may be cited as *The Ombudsman Act, 1975*.

An Act to provide for an Ombudsman
to investigate Administrative Decisions
and Acts of Officials of the Government
of Ontario and its Agencies

1st Reading

May 27th, 1975

2nd Reading

3rd Reading

THE HON. J. T. CLEMENT
Attorney General

((*Government Bill*))

5TH SESSION, 29TH LEGISLATURE, ONTARIO
24 ELIZABETH II, 1975

**An Act to provide for an Ombudsman to investigate
Administrative Decisions and Acts of Officials of the
Government of Ontario and its Agencies**

THE HON. J. T. CLEMENT
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(Reprinted as amended by the Committee of the Whole House)

EXPLANATORY NOTE

The Bill provides for an Ombudsman to investigate administrative decisions and acts of officials of the Government of Ontario and its agencies.

The provisions of the Bill are self-explanatory.

BILL 86

1975

An Act to provide for an Ombudsman to investigate Administrative Decisions and Acts of Officials of the Government of Ontario and its Agencies

HER MAJESTY, by and with the advice and consent of the Legislative Assembly of the Province of Ontario, enacts as follows:

1. In this Act,

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(a) "governmental organization" means a Ministry, commission, board or other administrative unit of the Government of Ontario, and includes any agency thereof;

(b) "minister" means a member of the Executive Council.

2. There shall be appointed, as an officer of the Legislature, an Ombudsman to exercise the powers and perform the duties prescribed by this Act.

3. The Ombudsman shall be appointed by the Lieutenant Governor in Council on the address of the Assembly.

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(2) The Ombudsman may be reappointed for a further term or terms but shall retire upon attaining the age of sixty-five years.

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5.—(1) The Ombudsman shall devote himself exclusively to the duties of his office and shall not hold any other office under the Crown or engage in any other employment.

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(2) *The Public Service Act* and *The Public Service Superannuation Act* do not apply to the Ombudsman.

Idem
R.S.O. 1970,
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Idem (2) The salary of the Ombudsman shall not be reduced except on address of the Assembly.

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(3) *The Public Service Superannuation Act* applies to the permanent and full-time probationary staff of the Ombudsman as though the Ombudsman were a commission designated by the Lieutenant Governor in Council under section 27 of that Act. Employees' superannuation benefits
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(2) The Ombudsman may make any such investigation on a complaint made to him by any person affected or by any member of the Assembly to whom a complaint is made by any person affected, or of his own motion.

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Decisions
not
reviewable

(4) Nothing in this Act empowers the Ombudsman to investigate any decision, recommendation, act or omission,

- (a) in respect of which there is, under any Act, a right of appeal or objection, or a right to apply for a hearing or review, on the merits of the case to any court, or to any tribunal constituted by or under any Act, until that right of appeal or objection or application has been exercised in the particular case, or until after any time for the exercise of that right has expired;

- (b) of any person acting as legal adviser to the Crown or acting as counsel to the Crown in relation to any proceedings.

Application
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(5) If any question arises whether the Ombudsman has jurisdiction to investigate any case or class of cases under this Act, he may, if he thinks fit, apply to the Supreme Court for a declaratory order determining the question.

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(3) The Ombudsman may hear or obtain information from such persons as he thinks fit, and may make such inquiries as he thinks fit and it is not necessary for the Ombudsman to hold any hearing and no person is entitled as of right to be heard by the Ombudsman, but, if at any time during the course of an investigation, it appears to the Ombudsman that there may be sufficient grounds for his making any report or recommendation that may adversely affect any governmental organization or person, he shall give to that organization or person an opportunity to make representations respecting the adverse report or recommendation, either personally or by counsel.

May
consult
minister

(4) The Ombudsman may in his discretion, at any time during or after any investigation, consult any minister who is concerned in the matter of the investigation.

Must
consult
minister

(5) On the request of any minister in relation to any investigation, or in any case where any investigation relates to any recommendation made to a minister, the Ombudsman shall consult that minister after making the investigation and before forming a final opinion on any of the matters referred to in subsection 1 or 2 of section 22.

Breach of
duty or
misconduct

(6) If, during or after an investigation, the Ombudsman is of opinion that there is evidence of a breach of duty or of misconduct on the part of any officer or employee of any governmental organization, he may refer the matter to the appropriate authority.

Evidence

20.—(1) The Ombudsman may from time to time require any officer, employee or member of any governmental organization who in his opinion is able to give any information relating to any matter that is being investigated by the Ombudsman to furnish to him any such information, and to produce any documents or things which in the Ombudsman's opinion relate to any such matter and which may be in the possession or under the control of that person.

Examination under
oath

(2) The Ombudsman may summon before him and examine on oath,

(a) any complainant;

- (b) any person who is an officer or employee or member of any governmental organization and who, in the Ombudsman's opinion, is able to give any information mentioned in subsection 1; or
- (c) any other person who, in the Ombudsman's opinion, is able to give any information mentioned in subsection 1,

and for that purpose may administer an oath.

(3) Subject to subsection 4, no person who is bound by the provisions of any Act, other than *The Public Service Act*, to maintain secrecy in relation to, or not to disclose, any matter shall be required to supply any information to or answer any question put by the Ombudsman in relation to that matter, or to produce to the Ombudsman any document or thing relating to it, if compliance with that requirement would be in breach of the obligation of secrecy or non-disclosure.

Secrecy
R.S.O. 1970,
c. 386

(4) With the previous consent in writing of any complainant, any person to whom subsection 3 applies may be required by the Ombudsman to supply information or answer any question or produce any document or thing relating only to the complainant, and it is the duty of the person to comply with that requirement.

Idem

(5) Every person has the same privileges in relation to the giving of information, the answering of questions, and the production of documents and things as witnesses have in any court.

Privileges

(6) Except on the trial of any person for perjury in respect of his sworn testimony, no statement made or answer given by that or any other person in the course of any inquiry by or any proceedings before the Ombudsman is admissible in evidence against any person in any court or at any inquiry or in any other proceedings, and no evidence in respect of proceedings before the Ombudsman shall be given against any person.

Protection

(7) A person giving a statement or answer in the course of any inquiry or proceeding before the Ombudsman shall be informed by the Ombudsman of his right to object to answer any question under section 5 of the *Canada Evidence Act*.

Idem
under
R.S.C. 1970,
c. E-10

(8) No person is liable to prosecution for an offence against any Act, other than this Act, by reason of his compliance with any requirement of the Ombudsman under this section.

Prosecution

Fees

(9) Where any person is required by the Ombudsman to attend before him for the purposes of this section, the person is entitled to the same fees, allowances, and expenses as if he were a witness in the Supreme Court, and the provisions of any Act, regulation or rule in that behalf apply accordingly.

Disclosure of certain matters not to be required

21.—(1) Where the Attorney General certifies that the giving of any information or the answering of any question or the production of any document or thing,

- (a) might interfere with or impede investigation or detection of offences;
- (b) might involve the disclosure of the deliberations of the Executive Council; or
- (c) might involve the disclosure of proceedings of the Executive Council or of any committee of the Executive Council, relating to matters of a secret or confidential nature, and would be injurious to the public interest,

the Ombudsman shall not require the information or answer to be given or, as the case may be, the document or thing to be produced.

Idem

(2) Subject to subsection 1, the rule of law which authorizes or requires the withholding of any document, or the refusal to answer any question, on the ground that the disclosure of the document or the answering of the question would be injurious to the public interest does not apply in respect of any investigation by or proceedings before the Ombudsman.

Procedure after investigation

22.—(1) This section applies in every case where, after making an investigation under this Act, the Ombudsman is of opinion that the decision, recommendation, act or omission which was the subject-matter of the investigation,

- (a) appears to have been contrary to law;
- (b) was unreasonable, unjust, oppressive, or improperly discriminatory, or was in accordance with a rule of law or a provision of any Act or a practice that is or may be unreasonable, unjust, oppressive, or improperly discriminatory;
- (c) was based wholly or partly on a mistake of law or fact; or
- (d) was wrong.

(2) This section also applies in any case where the Ombudsman is of opinion that in the making of the decision or recommendation, or in the doing or omission of the act, a discretionary power has been exercised for an improper purpose or on irrelevant grounds or on the taking into account of irrelevant considerations, or that, in the case of a decision made in the exercise of any discretionary power, reasons should have been given for the decision. Idem

(3) If in any case to which this section applies the Ombudsman is of opinion, Ombudsman's report and recommendations

- (a) that the matter should be referred to the appropriate authority for further consideration;
- (b) that the omission should be rectified;
- (c) that the decision or recommendation should be cancelled or varied;
- (d) that any practice on which the decision, recommendation, act or omission was based should be altered;
- (e) that any law on which the decision, recommendation, act or omission was based should be reconsidered;
- (f) that reasons should have been given for the decision or recommendation; or
- (g) that any other steps should be taken,

the Ombudsman shall report his opinion, and his reasons therefor, to the appropriate governmental organization, and may make such recommendations as he thinks fit and he may request the governmental organization to notify him, within a specified time, of the steps, if any, that it proposes to take to give effect to his recommendations and the Ombudsman shall also send a copy of his report and recommendations to the minister concerned.

(4) If within a reasonable time after the report is made no action is taken which seems to the Ombudsman to be adequate and appropriate, the Ombudsman, in his discretion, after considering the comments, if any, made by or on behalf of any governmental organization affected, may send a copy of the report and recommendations to the Premier, and may thereafter make such report to the Assembly on the matter as he thinks fit. Where no appropriate action taken

(5) The Ombudsman shall attach to every report sent or made under subsection 4 a copy of any comments made by or on behalf of the governmental organization affected. Idem

Complainant
to be
informed
of result
of investiga-
tion

23.—(1) Where, on any investigation following a complaint, the Ombudsman makes a recommendation under subsection 3 of section 22, and no action which seems to the Ombudsman to be adequate and appropriate is taken thereon within a reasonable time, the Ombudsman shall inform the complainant of his recommendation, and may make such comments on the matter as he thinks fit.

Idem

(2) The Ombudsman shall in any case inform the complainant, in such manner and at such time as he thinks proper, of the result of the investigation.

Proceedings
not to be
questioned
or to be
subject to
review

24. No proceeding of the Ombudsman shall be held bad for want of form, and, except on the ground of lack of jurisdiction, no proceeding or decision of the Ombudsman is liable to be challenged, reviewed, quashed or called in question in any court.

Proceedings
privileged

25.—(1) No proceedings lie against the Ombudsman, or against any person holding any office or appointment under the Ombudsman, for anything he may do or report or say in the course of the exercise or intended exercise of his functions under this Act, unless it is shown that he acted in bad faith.

Idem

(2) The Ombudsman, and any such person as aforesaid, shall not be called to give evidence in any court, or in any proceedings of a judicial nature, in respect of anything coming to his knowledge in the exercise of his functions under this Act.

Idem

(3) Anything said or any information supplied or any document or thing produced by any person in the course of any inquiry by or proceedings before the Ombudsman under this Act is privileged in the same manner as if the inquiry or proceedings were proceedings in a court.

Power of
entry of
premises

26.—(1) For the purposes of this Act, the Ombudsman may at any time enter upon any premises occupied by any governmental organization and inspect the premises and carry out therein any investigation within his jurisdiction.

Notice of
entry

(2) Before entering any premises under subsection 1, the Ombudsman shall notify the head of the governmental organization occupying the premises of his purpose.

Notice to
desist

(3) The Attorney General may by notice to the Ombudsman exclude the application of subsection 1 to any specified premises or class of premises if he is satisfied that the exercise of the powers mentioned in subsection 1 might be prejudicial to the public interest.

(4) Where a notice is given under subsection 3 and in the opinion of the Ombudsman it is necessary to take an action apparently prevented by the notice, the Ombudsman may apply to a judge of the High Court for an order setting aside the notice in respect of such action and, where the judge is satisfied that such action would not be prejudicial to the public interest, he may make the order.

Order
of judge

27.—(1) The Ombudsman may in writing delegate to any person holding any office under him any of his powers under this Act except the power of delegation under this section and the power to make a report under this Act.

Delegation
of powers

(2) Every delegation under this section is revocable at will and no such delegation prevents the exercise by the Ombudsman of any power so delegated.

Delegation
is revocable

(3) Every such delegation may be made subject to such restrictions and conditions as the Ombudsman thinks fit.

Restrictions
and
conditions

(4) In the event that the Ombudsman by whom any such delegation is made ceases to hold office, the delegation continues in effect so long as the delegate continues in office or until revoked by a succeeding Ombudsman.

Continuing
effect of
delegation

(5) Any person purporting to exercise any power of the Ombudsman by virtue of a delegation under this section shall, when required so to do, produce evidence of his authority to exercise the power.

Evidence of
obligation

28. Every person who,

Offences
and
penalties

- (a) without lawful justification or excuse, wilfully obstructs, hinders or resists the Ombudsman or any other person in the performance of his functions under this Act; or
- (b) without lawful justification or excuse, refuses or wilfully fails to comply with any lawful requirement of the Ombudsman or any other person under this Act; or
- (c) wilfully makes any false statement to or misleads or attempts to mislead the Ombudsman or any other person in the exercise of his functions under this Act,

is guilty of an offence and liable on summary conviction to a fine of not more than \$500 or to imprisonment for a term of not more than three months, or to both.

Rights
under Act
do not
affect
other rights,
etc.

29. The provisions of this Act are in addition to the provisions of any other Act or rule of law under which any remedy or right of appeal or objection is provided for any person, or any procedure is provided for the inquiry into or investigation of any matter, and nothing in this Act limits or affects any such remedy or right of appeal or objection or procedure.

Commence-
ment

30. This Act comes into force on a day to be named by proclamation of the Lieutenant Governor.

Short title

31. This Act may be cited as *The Ombudsman Act, 1975*.

An Act to provide for an Ombudsman
to investigate Administrative Decisions
and Acts of Officials of the Government
of Ontario and its Agencies

1st Reading

May 27th, 1975

2nd Reading

June 12th, 1975

3rd Reading

THE HON. J. T. CLEMENT
Attorney General

*(Reprinted as amended by the
Committee of the Whole House)*

BILL 86

5TH SESSION, 29TH LEGISLATURE, ONTARIO
24 ELIZABETH II, 1975

An Act to provide for an Ombudsman to investigate Administrative Decisions and Acts of Officials of the Government of Ontario and its Agencies

THE HON. J. T. CLEMENT
Attorney General

An Act to provide for an Ombudsman to investigate Administrative Decisions and Acts of Officials of the Government of Ontario and its Agencies

HER MAJESTY, by and with the advice and consent of the Legislative Assembly of the Province of Ontario, enacts as follows:

1. In this Act,

Interpre-
tation

- (a) "governmental organization" means a Ministry, commission, board or other administrative unit of the Government of Ontario, and includes any agency thereof;
- (b) "minister" means a member of the Executive Council.

2. There shall be appointed, as an officer of the Legislature, an Ombudsman to exercise the powers and perform the duties prescribed by this Act. Ombudsman

3. The Ombudsman shall be appointed by the Lieutenant Governor in Council on the address of the Assembly. Appoint-
ment

4.—(1) Subject to this Act, the Ombudsman shall hold office for a term of ten years, but is removable at any time for cause by the Lieutenant Governor in Council on the address of the Assembly. Tenure of
office and
removal

(2) The Ombudsman may be reappointed for a further term or terms but shall retire upon attaining the age of sixty-five years. Reappoint-
ment
and
retirement

5.—(1) The Ombudsman shall devote himself exclusively to the duties of his office and shall not hold any other office under the Crown or engage in any other employment. Nature of
employment

(2) *The Public Service Act* and *The Public Service Superannuation Act* do not apply to the Ombudsman. Idem
R.S.O. 1970,
cc. 386, 387

- Salary** **6.**—(1) The Ombudsman shall be paid a salary to be fixed by the Lieutenant Governor in Council.
- Idem** (2) The salary of the Ombudsman shall not be reduced except on address of the Assembly.
- Expenses** (3) The Ombudsman is entitled to be paid reasonable travelling and living expenses while absent from his ordinary place of residence in the exercise of his functions under this Act.
- Pension**
1973, c. 152 (4) Part II of *The Legislative Assembly Retirement Allowances Act, 1973*, except sections 15 and 16, subsection 5 of section 18 and clause *a* of subsection 2 of section 19, applies, *mutatis mutandis*, to the Ombudsman in the same manner as if he were a member of the Legislative Assembly and for the purpose,
- (a) “average annual remuneration” means the average annual salary of the Ombudsman during any five years of his service, which years need not be consecutive, during which his salary was highest; and
- (b) “remuneration” means the salary of the Ombudsman.
- Temporary Ombudsman** **7.** In the event of the death or resignation of the Ombudsman while the Legislature is not in session or if he is unable or neglects to perform the functions of his office, the Lieutenant Governor in Council may appoint a temporary Ombudsman, to hold office for a term of not more than six months, who shall, while in such office, have the powers and duties and perform the functions of the Ombudsman and shall be paid such salary or other remuneration and expenses as the Lieutenant Governor in Council may fix.
- Staff** **8.**—(1) Subject to the approval of the Lieutenant Governor in Council, the Ombudsman may employ such officers and other employees as the Ombudsman considers necessary for the efficient operation of his office and may determine their salary and remuneration and terms and conditions of employment.
- Benefits** (2) The employee benefits applicable from time to time to the public servants of Ontario with respect to,
- (a) cumulative vacation and sick leave credits for regular attendance and payments in respect of such credits;

- (b) plans for group life insurance, medical-surgical insurance or long-term income protection; and
- (c) the granting of leave of absence,

apply to the permanent and full-time employees of the Ombudsman and where such benefits are provided for in regulations made under *The Public Service Act*, the Ombudsman, or any person authorized in writing by him, may exercise the powers and duties of a Minister or Deputy Minister or of the Civil Service Commission under such regulations.

R.S.O. 1970,
c. 386

(3) *The Public Service Superannuation Act* applies to the permanent and full-time probationary staff of the Ombudsman as though the Ombudsman were a commission designated by the Lieutenant Governor in Council under section 27 of that Act.

Employees'
superannua-
tion
benefits
R.S.O. 1970,
c. 387

9. The Ombudsman may lease such premises and acquire such equipment and supplies as are necessary for the efficient operation of his office.

Premises
and supplies

10. The salary of the Ombudsman and the expenses required for the operation of his office are payable, until the 31st day of March, 1976, out of the Consolidated Revenue Fund and thereafter out of moneys appropriated therefor by the Legislature.

Salary
and
expenses

11. The accounts and financial transactions of the office of the Ombudsman shall be audited annually by the Provincial Auditor.

Audit

12. The Ombudsman shall report annually upon the affairs of his office to the Speaker of the Assembly who shall cause the report to be laid before the Assembly if it is in session or, if not, at the next ensuing session.

Annual
report

13.—(1) Before commencing the duties of his office, the Ombudsman shall take an oath, to be administered by the Speaker of the Assembly, that he will faithfully and impartially exercise the functions of his office and that he will not, except in accordance with subsection 2, disclose any information received by him as Ombudsman.

Oath of
office and
secrecy

(2) The Ombudsman may disclose in any report made by him under this Act such matters as in his opinion ought to be disclosed in order to establish grounds for his conclusions and recommendations.

Disclosure

Application
of Act

14. This Act does not apply,

- (a) to judges or to the functions of any court; or
- (b) to deliberations and proceedings of the Executive Council or any committee thereof.

Function of
Ombudsman

15.—(1) The function of the Ombudsman is to investigate any decision or recommendation made or any act done or omitted in the course of the administration of a governmental organization and affecting any person or body of persons in his or its personal capacity.

Investiga-
tion on
complaint

(2) The Ombudsman may make any such investigation on a complaint made to him by any person affected or by any member of the Assembly to whom a complaint is made by any person affected, or of his own motion.

Powers
paramount

(3) The powers conferred on the Ombudsman by this Act may be exercised notwithstanding any provision in any Act to the effect that any such decision, recommendation, act or omission is final, or that no appeal lies in respect thereof, or that no proceeding or decision of the person or organization whose decision, recommendation, act or omission it is shall be challenged, reviewed, quashed or called in question.

Decisions
not
reviewable

(4) Nothing in this Act empowers the Ombudsman to investigate any decision, recommendation, act or omission,

- (a) in respect of which there is, under any Act, a right of appeal or objection, or a right to apply for a hearing or review, on the merits of the case to any court, or to any tribunal constituted by or under any Act, until that right of appeal or objection or application has been exercised in the particular case, or until after any time for the exercise of that right has expired;
- (b) of any person acting as legal adviser to the Crown or acting as counsel to the Crown in relation to any proceedings.

Application
to S.C.O. to
determine
jurisdiction

(5) If any question arises whether the Ombudsman has jurisdiction to investigate any case or class of cases under this Act, he may, if he thinks fit, apply to the Supreme Court for a declaratory order determining the question.

Guidance
rules

16.—(1) The Assembly may make general rules for the guidance of the Ombudsman in the exercise of his functions under this Act.

(2) All rules made under this section shall be deemed to be regulations within the meaning of *The Regulations Act*. Idem
R.S.O. 1970,
c. 410

(3) Subject to this Act and any rules made under this section, the Ombudsman may determine his procedures. Procedures

17.—(1) Every complaint to the Ombudsman shall be made in writing. Mode of
complaint

(2) Notwithstanding any provision in any Act, where any letter written by an inmate of any provincial correctional institution or training school or a patient in a provincial psychiatric facility is addressed to the Ombudsman it shall be immediately forwarded, unopened, to the Ombudsman by the person for the time being in charge of the institution, training school or facility. To be
forwarded

18.—(1) If, in the course of the investigation of any complaint within his jurisdiction, it appears to the Ombudsman, Ombudsman
may
refuse to
investigate
complaint

(a) that under the law or existing administrative practice there is an adequate remedy for the complainant, whether or not he has availed himself of it; or

(b) that, having regard to all the circumstances of the case, any further investigation is unnecessary,

he may in his discretion refuse to investigate the matter further.

(2) Without limiting the generality of the powers conferred on the Ombudsman by this Act, the Ombudsman may in his discretion decide not to investigate, or, as the case may require, not to further investigate, any complaint if it relates to any decision, recommendation, act or omission of which the complainant has had knowledge for more than twelve months before the complaint is received by the Ombudsman, or, if in his opinion, Idem

(a) the subject-matter of the complaint is trivial;

(b) the complaint is frivolous or vexatious or is not made in good faith; or

(c) the complainant has not a sufficient personal interest in the subject-matter of the complaint.

(3) In any case where the Ombudsman decides not to investigate or further investigate a complaint he shall inform the complainant in writing of that decision, and may if he thinks fit state his reasons therefor. Complainant
to be
informed

Proceedings
of
Ombudsman

19.—(1) Before investigating any matter, the Ombudsman shall inform the head of the governmental organization affected of his intention to make the investigation.

Investigation to be
in private

(2) Every investigation by the Ombudsman under this Act shall be conducted in private.

Where
hearing
necessary

(3) The Ombudsman may hear or obtain information from such persons as he thinks fit, and may make such inquiries as he thinks fit and it is not necessary for the Ombudsman to hold any hearing and no person is entitled as of right to be heard by the Ombudsman, but, if at any time during the course of an investigation, it appears to the Ombudsman that there may be sufficient grounds for his making any report or recommendation that may adversely affect any governmental organization or person, he shall give to that organization or person an opportunity to make representations respecting the adverse report or recommendation, either personally or by counsel.

May
consult
minister

(4) The Ombudsman may in his discretion, at any time during or after any investigation, consult any minister who is concerned in the matter of the investigation.

Must
consult
minister

(5) On the request of any minister in relation to any investigation, or in any case where any investigation relates to any recommendation made to a minister, the Ombudsman shall consult that minister after making the investigation and before forming a final opinion on any of the matters referred to in subsection 1 or 2 of section 22.

Breach of
duty or
misconduct

(6) If, during or after an investigation, the Ombudsman is of opinion that there is evidence of a breach of duty or of misconduct on the part of any officer or employee of any governmental organization, he may refer the matter to the appropriate authority.

Evidence

20.—(1) The Ombudsman may from time to time require any officer, employee or member of any governmental organization who in his opinion is able to give any information relating to any matter that is being investigated by the Ombudsman to furnish to him any such information, and to produce any documents or things which in the Ombudsman's opinion relate to any such matter and which may be in the possession or under the control of that person.

Examination under
oath

(2) The Ombudsman may summon before him and examine on oath,

(a) any complainant;

- (b) any person who is an officer or employee or member of any governmental organization and who, in the Ombudsman's opinion, is able to give any information mentioned in subsection 1; or
- (c) any other person who, in the Ombudsman's opinion, is able to give any information mentioned in subsection 1,

and for that purpose may administer an oath.

(3) Subject to subsection 4, no person who is bound by the provisions of any Act, other than *The Public Service Act*, to maintain secrecy in relation to, or not to disclose, any matter shall be required to supply any information to or answer any question put by the Ombudsman in relation to that matter, or to produce to the Ombudsman any document or thing relating to it, if compliance with that requirement would be in breach of the obligation of secrecy or non-disclosure.

Secrecy

R.S.O. 1970,
c. 386

(4) With the previous consent in writing of any complainant, any person to whom subsection 3 applies may be required by the Ombudsman to supply information or answer any question or produce any document or thing relating only to the complainant, and it is the duty of the person to comply with that requirement.

Idem

(5) Every person has the same privileges in relation to the giving of information, the answering of questions, and the production of documents and things as witnesses have in any court.

Privileges

(6) Except on the trial of any person for perjury in respect of his sworn testimony, no statement made or answer given by that or any other person in the course of any inquiry by or any proceedings before the Ombudsman is admissible in evidence against any person in any court or at any inquiry or in any other proceedings, and no evidence in respect of proceedings before the Ombudsman shall be given against any person.

Protection

(7) A person giving a statement or answer in the course of any inquiry or proceeding before the Ombudsman shall be informed by the Ombudsman of his right to object to answer any question under section 5 of the *Canada Evidence Act*.

Idem
under
R.S.C. 1970,
c. E-10

(8) No person is liable to prosecution for an offence against any Act, other than this Act, by reason of his compliance with any requirement of the Ombudsman under this section.

Prosecution

Fees

(9) Where any person is required by the Ombudsman to attend before him for the purposes of this section, the person is entitled to the same fees, allowances, and expenses as if he were a witness in the Supreme Court, and the provisions of any Act, regulation or rule in that behalf apply accordingly.

Disclosure
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matters not
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21.—(1) Where the Attorney General certifies that the giving of any information or the answering of any question or the production of any document or thing,

- (a) might interfere with or impede investigation or detection of offences;
- (b) might involve the disclosure of the deliberations of the Executive Council; or
- (c) might involve the disclosure of proceedings of the Executive Council or of any committee of the Executive Council, relating to matters of a secret or confidential nature, and would be injurious to the public interest,

the Ombudsman shall not require the information or answer to be given or, as the case may be, the document or thing to be produced.

Idem

(2) Subject to subsection 1, the rule of law which authorizes or requires the withholding of any document, or the refusal to answer any question, on the ground that the disclosure of the document or the answering of the question would be injurious to the public interest does not apply in respect of any investigation by or proceedings before the Ombudsman.

Procedure
after
investigation

22.—(1) This section applies in every case where, after making an investigation under this Act, the Ombudsman is of opinion that the decision, recommendation, act or omission which was the subject-matter of the investigation,

- (a) appears to have been contrary to law;
- (b) was unreasonable, unjust, oppressive, or improperly discriminatory, or was in accordance with a rule of law or a provision of any Act or a practice that is or may be unreasonable, unjust, oppressive, or improperly discriminatory;
- (c) was based wholly or partly on a mistake of law or fact; or
- (d) was wrong.

(2) This section also applies in any case where the Ombudsman is of opinion that in the making of the decision or recommendation, or in the doing or omission of the act, a discretionary power has been exercised for an improper purpose or on irrelevant grounds or on the taking into account of irrelevant considerations, or that, in the case of a decision made in the exercise of any discretionary power, reasons should have been given for the decision.

(3) If in any case to which this section applies the Ombudsman is of opinion, Idem
Ombudsman's
report and
recom-
mendations

- (a) that the matter should be referred to the appropriate authority for further consideration;
- (b) that the omission should be rectified;
- (c) that the decision or recommendation should be cancelled or varied;
- (d) that any practice on which the decision, recommendation, act or omission was based should be altered;
- (e) that any law on which the decision, recommendation, act or omission was based should be reconsidered;
- (f) that reasons should have been given for the decision or recommendation; or
- (g) that any other steps should be taken,

the Ombudsman shall report his opinion, and his reasons therefor, to the appropriate governmental organization, and may make such recommendations as he thinks fit and he may request the governmental organization to notify him, within a specified time, of the steps, if any, that it proposes to take to give effect to his recommendations and the Ombudsman shall also send a copy of his report and recommendations to the minister concerned.

(4) If within a reasonable time after the report is made no action is taken which seems to the Ombudsman to be adequate and appropriate, the Ombudsman, in his discretion, after considering the comments, if any, made by or on behalf of any governmental organization affected, may send a copy of the report and recommendations to the Premier, and may thereafter make such report to the Assembly on the matter as he thinks fit. Where no
appropriate
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taken

(5) The Ombudsman shall attach to every report sent or made under subsection 4 a copy of any comments made by or on behalf of the governmental organization affected. Idem

Complainant
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23.—(1) Where, on any investigation following a complaint, the Ombudsman makes a recommendation under subsection 3 of section 22, and no action which seems to the Ombudsman to be adequate and appropriate is taken thereon within a reasonable time, the Ombudsman shall inform the complainant of his recommendation, and may make such comments on the matter as he thinks fit.

Idem

(2) The Ombudsman shall in any case inform the complainant, in such manner and at such time as he thinks proper, of the result of the investigation.

Proceedings
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or to be
subject to
review

24. No proceeding of the Ombudsman shall be held bad for want of form, and, except on the ground of lack of jurisdiction, no proceeding or decision of the Ombudsman is liable to be challenged, reviewed, quashed or called in question in any court.

Proceedings
privileged

25.—(1) No proceedings lie against the Ombudsman, or against any person holding any office or appointment under the Ombudsman, for anything he may do or report or say in the course of the exercise or intended exercise of his functions under this Act, unless it is shown that he acted in bad faith.

Idem

(2) The Ombudsman, and any such person as aforesaid, shall not be called to give evidence in any court, or in any proceedings of a judicial nature, in respect of anything coming to his knowledge in the exercise of his functions under this Act.

Idem

(3) Anything said or any information supplied or any document or thing produced by any person in the course of any inquiry by or proceedings before the Ombudsman under this Act is privileged in the same manner as if the inquiry or proceedings were proceedings in a court.

Power of
entry of
premises

26.—(1) For the purposes of this Act, the Ombudsman may at any time enter upon any premises occupied by any governmental organization and inspect the premises and carry out therein any investigation within his jurisdiction.

Notice of
entry

(2) Before entering any premises under subsection 1, the Ombudsman shall notify the head of the governmental organization occupying the premises of his purpose.

Notice to
desist

(3) The Attorney General may by notice to the Ombudsman exclude the application of subsection 1 to any specified premises or class of premises if he is satisfied that the exercise of the powers mentioned in subsection 1 might be prejudicial to the public interest.

(4) Where a notice is given under subsection 3 and in the opinion of the Ombudsman it is necessary to take an action apparently prevented by the notice, the Ombudsman may apply to a judge of the High Court for an order setting aside the notice in respect of such action and, where the judge is satisfied that such action would not be prejudicial to the public interest, he may make the order.

Order
of judge

27.—(1) The Ombudsman may in writing delegate to any person holding any office under him any of his powers under this Act except the power of delegation under this section and the power to make a report under this Act.

Delegation
of powers

(2) Every delegation under this section is revocable at will and no such delegation prevents the exercise by the Ombudsman of any power so delegated.

Delegation
is revocable

(3) Every such delegation may be made subject to such restrictions and conditions as the Ombudsman thinks fit.

Restrictions
and
conditions

(4) In the event that the Ombudsman by whom any such delegation is made ceases to hold office, the delegation continues in effect so long as the delegate continues in office or until revoked by a succeeding Ombudsman.

Continuing
effect of
delegation

(5) Any person purporting to exercise any power of the Ombudsman by virtue of a delegation under this section shall, when required so to do, produce evidence of his authority to exercise the power.

Evidence of
obligation

28. Every person who,

Offences
and
penalties

- (a) without lawful justification or excuse, wilfully obstructs, hinders or resists the Ombudsman or any other person in the performance of his functions under this Act; or
- (b) without lawful justification or excuse, refuses or wilfully fails to comply with any lawful requirement of the Ombudsman or any other person under this Act; or
- (c) wilfully makes any false statement to or misleads or attempts to mislead the Ombudsman or any other person in the exercise of his functions under this Act,

is guilty of an offence and liable on summary conviction to a fine of not more than \$500 or to imprisonment for a term of not more than three months, or to both.

Rights
under Act
do not
affect
other rights,
etc.

29. The provisions of this Act are in addition to the provisions of any other Act or rule of law under which any remedy or right of appeal or objection is provided for any person, or any procedure is provided for the inquiry into or investigation of any matter, and nothing in this Act limits or affects any such remedy or right of appeal or objection or procedure.

Commence-
ment

30. This Act comes into force on a day to be named by proclamation of the Lieutenant Governor.

Short title

31. This Act may be cited as *The Ombudsman Act, 1975*.

An Act to provide for an Ombudsman
to investigate Administrative Decisions
and Acts of Officials of the Government
of Ontario and its Agencies

1st Reading

May 27th, 1975

2nd Reading

June 12th, 1975

3rd Reading

June 27th, 1975

THE HON. J. T. CLEMENT
Attorney General

5TH SESSION, 29TH LEGISLATURE, ONTARIO
24 ELIZABETH II, 1975

**An Act to amend
The Employment Standards Act, 1974**

MRS. CAMPBELL

TORONTO

PRINTED BY J. C. THATCHER, QUEEN'S PRINTER FOR ONTARIO

EXPLANATORY NOTES

SECTION 1. The purpose of the amendment is to bring cleaning and maintenance superintendents within the scope of the Act. These employees would then be covered by the laws governing minimum wage, overtime pay, public holidays, vacations with pay, benefit plans, etc. The inclusion of this class of employees would also give an employee the benefit of the protection provided under section 57 of the Act where an employer threatens to dismiss the employee unlawfully.

SECTION 2. The purpose of the amendment is to limit the maximum working hours to forty hours per week. Any work in excess of this limit would be overtime work.

BILL 87

1975

An Act to amend The Employment Standards Act, 1974

HER MAJESTY, by and with the advice and consent of the Legislative Assembly of the Province of Ontario, enacts as follows:

- 1.—(1) Section 1 of *The Employment Standards Act, 1974*, being ^{s. 1, amended} chapter 112, is amended by relettering clause *a* as clause *aa* and by adding thereto the following clause:

(a) “cleaning superintendent” means a person employed as a superintendent, janitor or caretaker of a residential building solely for the purpose of cleaning the building.

- (2) Clause *c* of the said section 1 is amended by striking ^{s. 1 (c), amended} out “or” at the end of subclause ii, by adding “or” at the end of subclause iii and by adding thereto the following subclause:

(iv) performs work as a maintenance superintendent or a cleaning superintendent,

- (3) The said section 1 is further amended by adding thereto ^{s. 1, amended} the following clause:

(ga) “maintenance superintendent” means a person employed as a superintendent, janitor or caretaker of a residential building solely for the purpose of keeping the building in a good state of repair where the person is not required to perform any skill required of a person holding a certificate of qualification under *The Apprenticeship and Tradesmen’s Qualification Act*. ^{R.S.O. 1970, c. 24}

2. Section 17 of the said Act is amended by adding thereto ^{s. 17, amended} the following subsection:

Maximum
working
hours for
superin-
tendents

(2) Notwithstanding subsection 1, the hours of work of a cleaning superintendent or a maintenance superintendent shall not exceed eight in the day and forty in the week.

s. 33a,
enacted

3. The said Act is amended by adding thereto the following section:

Benefits
where
spouse
required
to work

33a. Where a person is employed as a cleaning superintendent or a maintenance superintendent and such person lives in or in close proximity to the building in which he works and where his spouse is required to perform any of the functions of the person employed, such spouse shall be deemed to also be an employee and shall be entitled to the same wages and benefits that would accrue to the person.

s. 40,
amended

4. Section 40 of the said Act is amended by adding thereto the following subsection:

Idem

(1a) Notwithstanding subsection 1, where an employee is employed as a cleaning superintendent or a maintenance superintendent and such employment includes the use of living accommodation for the employee and his family, the employer shall not terminate the employment of the employee unless he gives four weeks notice in writing to the employee.

Commence-
ment

5. This Act comes into force on the day it receives Royal Assent.

Short title

6. This Act may be cited as *The Employment Standards Amendment Act, 1975*.

SECTION 3. The purpose of the amendment is to ensure that where the spouse of a superintendent is required to work, such spouse will be paid the minimum wage for such work and any benefits that would accrue under the Act.

SECTION 4. The purpose of the amendment is to give an employee whose employment has been terminated adequate time to find new accommodation.

An Act to amend
The Employment Standards
Act, 1974

1st Reading

May 27th, 1975

2nd Reading

3rd Reading

MRS. CAMPBELL

(Private Member's Bill)

5TH SESSION, 29TH LEGISLATURE, ONTARIO
24 ELIZABETH II, 1975

**An Act to amend
The Horticultural Societies Act**

THE HON. W. A. STEWART
Minister of Agriculture and Food

TORONTO

PRINTED BY J. C. THATCHER, QUEEN'S PRINTER FOR ONTARIO

EXPLANATORY NOTE

The main provisions of the Bill are as follows:

1. The references in the Act to the "Superintendent" are updated to a reference to the Director of the Agricultural and Horticultural Societies Branch of the Ministry of Agriculture and Food. (Sections 1 and 2).
2. At present, the board of directors of a society may be composed of the president, first vice-president, second vice-president and ten directors.

Provision is made for the election of not more than five additional directors and five junior directors. (Section 4).

3. The minimum fee for an annual membership in a society is increased to \$1. (Section 5).
4. The amounts of grants that may be paid to societies are increased.

Every society shall, during the first year of its existence, receive a grant amounting to \$2 for every paid-up member, to a maximum of \$200. The present amount is 50 cents per member to a maximum of \$75. (Section 10).

At present, every society that has been in existence for more than one year receives a grant of 25 cents for each paid-up member and one-quarter of the total amount expended by the society during the previous year for its purposes. The Bill provides for payment of a grant of \$1 per member and one-half of the amount expended. (Section 10).

5. The Act now provides that no grant to a society shall exceed \$500. The maximum is increased to \$1,000 in the case of a society having more than 100 and fewer than 200 members and \$1,500 in the case of a society having 200 members or more. (Section 10).
6. Every society is entitled to be affiliated with the Ontario Horticultural Association. (Section 10).
7. Other provisions of the Bill update the Act to reflect present practices and policies respecting the organization and functioning of societies.

BILL 88

1975

An Act to amend The Horticultural Societies Act

HER MAJESTY, by and with the advice and consent of the Legislative Assembly of the Province of Ontario, enacts as follows:

1. *The Horticultural Societies Act*, being chapter 207 of the Revised Statutes of Ontario, 1970, is amended by striking out "Superintendent" wherever it occurs and inserting in lieu thereof in each instance "Director". Act,
amended

2. Section 1 of the said Act is repealed and the following substituted therefor: s. 1,
re-enacted
 1. In this Act, Interpre-
tation
 - (a) "Board" means a board of directors elected under this Act;
 - (b) "Director" means the Director of the Agricultural and Horticultural Societies Branch of the Ministry;
 - (c) "Minister" means the Minister of Agriculture and Food;
 - (d) "Ministry" means the Ministry of Agriculture and Food;
 - (e) "society" means a horticultural society organized under this Act or under any former Act having a similar purpose.

3. Section 3 of the said Act is repealed and the following substituted therefor: s. 3,
re-enacted

3.—(1) A society may be organized in any local municipality or in a police village having a population of not less than 200, or in any two of them that adjoin each other. Where
societies
may be
organized

Additional
societies

(2) In a local municipality having a population of not less than 100,000 there may be two societies and for each additional 100,000 of population there may be an additional society.

Reorgan-
ization,
etc., of muni-
cipality does
not affect
existing
society

(3) A reorganization, amalgamation or boundary alteration of a municipality does not affect any society that has been organized prior thereto.

s. 4, pars. 2, 3,
5, 7, 8,
re-enacted

4. Paragraphs 2, 3, 5, 7 and 8 of section 4 of the said Act are repealed and the following substituted therefor:

2. The number of persons signing the agreement shall be, in the case of a society in a territorial district or provisional county, at least 25 and elsewhere in Ontario, at least 50.

3. Every person who signs the agreement shall pay to the person having charge thereof the sum of \$2 as a membership fee and all such sums become the property of the society upon its organization, and, where no society is organized, the sums shall be repaid to the persons entitled thereto.

5. The organization meeting shall be held as soon as practicable after the required number of signatures are obtained or at such other time as the Director authorizes, upon at least one week's notice published in a newspaper having a general circulation in the area in which the society is to be organized.

7. At the organization meeting there shall be elected a board of directors composed of a president, first vice-president and second vice-president to hold office until the next annual meeting and ten directors of whom five shall hold office until the next annual meeting and five shall hold office until the next following annual meeting and,

(a) where any member of the board so elected has not paid the sum of \$2 required by paragraph 3, he shall pay such sum to the treasurer or secretary-treasurer within two weeks of the election; and

- (b) where the Director has so authorized, there may be elected not more than five additional directors and not more than five junior directors and no person is eligible for election as a junior director who, at the time of the election, is more than twenty-six years of age.

8. At the organization meeting and at every annual meeting there shall be elected two auditors to hold office until the next annual meeting.

5. Subsections 1, 2, 3 and 5 of section 8 of the said Act are repealed and the following substituted therefor: s. 8 (1-3, 5),
re-enacted

(1) Every person of the full age of sixteen years or over is entitled to become a member of a society and every person under the age of sixteen years is entitled to become an associate member of a society. Persons
entitled to
membership

(2) Subject to the by-laws of a society, a partnership or incorporated company or an association directed towards horticultural interests may become a member of the society upon payment of the prescribed fee but, in every such case, the partnership, company or association shall delegate one person to exercise the privilege of membership in the society. Partnership,
corporation
or associa-
tion may
be member

(3) In every society there shall be an annual membership fee of not less than \$1. Membership
fee

.

(5) Every full member in good standing of a society is entitled to vote on all questions coming before a regular or special meeting of the society. Voting of
members

6. Clauses *b*, *c* and *f* of subsection 1 of section 9 of the said Act are repealed and the following substituted therefor: s. 9 (1),
(b), (c), (f),
re-enacted

(b) by encouraging the improvement of private and public grounds, including highways and streets, by the planting of trees, shrubs and flowers, and by otherwise promoting outdoor art, public beautification, balcony gardening, therapeutic use of horticulture, community gardens and plot gardening;

(c) by interesting youth and others in the study of horticulture by the holding of meetings, field trips, contests and competitions and by such other means as the society considers proper;

.

(f) by promoting the protection of the environment with appropriate horticultural projects; and

(g) by promoting the circulation of horticultural information through all available media including periodicals and provision of books for libraries.

s. 11,
amended

7. Section 11 of the said Act is amended by adding thereto the following subsection:

ex officio
member

(2) Where there is an immediate past president of a society he is *ex officio* a member of the board of directors.

s. 13 (1),
re-enacted

8. Subsection 1 of section 13 of the said Act is repealed and the following substituted therefor:

Statement
to be sent
to Minister

(1) A statement of officers and members and a copy of the financial statement in the form prescribed by the Minister and certified by the president, secretary-treasurer or secretary and treasurer, and auditors to be true copies shall be forwarded to the Director within ninety days of the holding of the annual meeting.

s. 15 (2),
re-enacted

9. Subsection 2 of section 15 of the said Act is repealed and the following substituted therefor:

Quorum

(2) One-third of the members of the board constitutes a quorum.

ss. 19, 20,
re-enacted

10. Sections 19 and 20 of the said Act are repealed and the following substituted therefor:

Payment
of grants

19. Grants shall be paid to societies out of moneys appropriated therefor by the Legislature according to the following plan:

1. Every society shall, during the first year of its existence, receive a grant amounting to \$2 for every paid-up member as of the 1st day of July, but no such grant shall exceed \$200.

2. Subject to paragraph 3, every society that has been in existence for more than one year shall receive a grant amounting to,

(a) \$1 for every paid-up member during the previous year; and

(b) one-half of the total amount expended by the society during the preceding year for the pur-

pose of carrying out its objects, and, for the purpose of this clause, up to one-quarter of the amount expended by the society may be composed of the value of donated labour.

3. No grant under paragraph 2 shall exceed,

- (a) in the case of a society with 100 or fewer members, \$500;
- (b) in the case of a society with more than 100 and fewer than 200 members, \$1,000; and
- (c) in the case of a society with 200 members or more, \$1,500.

20. The council of a city, town, village, township, regional municipality, district municipality or county may grant money to any society organized wholly or partly within its limits. ^{Municipal grants}

20a. Every society within the meaning of this Act is entitled to be affiliated with the Ontario Horticultural Association upon payment of the affiliation fees prescribed therefor by the Association. ^{Entitlement to affiliation}

11. This Act comes into force on the day it receives Royal Assent. ^{Commencement}

12. This Act may be cited as *The Horticultural Societies Amendment Act, 1975*. ^{Short title}

An Act to amend
The Horticultural Societies Act

1st Reading

May 29th, 1975

2nd Reading

3rd Reading

THE HON. W. A. STEWART
Minister of Agriculture and Food

(Government Bill)

BILL 88

5TH SESSION, 29TH LEGISLATURE, ONTARIO
24 ELIZABETH II, 1975

An Act to amend The Horticultural Societies Act

THE HON. W. A. STEWART
Minister of Agriculture and Food

TORONTO

PRINTED BY J. C. THATCHER, QUEEN'S PRINTER FOR ONTARIO

THE UNIVERSITY OF CHICAGO

THE UNIVERSITY OF CHICAGO



An Act to amend The Horticultural Societies Act

HER MAJESTY, by and with the advice and consent of the Legislative Assembly of the Province of Ontario, enacts as follows:

1. *The Horticultural Societies Act*, being chapter 207 of the Revised Statutes of Ontario, 1970, is amended by striking out "Superintendent" wherever it occurs and inserting in lieu thereof in each instance "Director". Act,
amended

2. Section 1 of the said Act is repealed and the following substituted therefor: s. 1,
re-enacted

1. In this Act,

Interpre-
tation

(a) "Board" means a board of directors elected under this Act;

(b) "Director" means the Director of the Agricultural and Horticultural Societies Branch of the Ministry;

(c) "Minister" means the Minister of Agriculture and Food;

(d) "Ministry" means the Ministry of Agriculture and Food;

(e) "society" means a horticultural society organized under this Act or under any former Act having a similar purpose.

3. Section 3 of the said Act is repealed and the following substituted therefor: s. 3,
re-enacted

3.—(1) A society may be organized in any local municipality or in a police village having a population of not less than 200, or in any two of them that adjoin each other. Where
societies
may be
organized

Additional
societies

(2) In a local municipality having a population of not less than 100,000 there may be two societies and for each additional 100,000 of population there may be an additional society.

Reorgan-
ization,
etc., of muni-
cipality does
not affect
existing
society

(3) A reorganization, amalgamation or boundary alteration of a municipality does not affect any society that has been organized prior thereto.

s. 4, pars. 2, 3,
5, 7, 8,
re-enacted

4. Paragraphs 2, 3, 5, 7 and 8 of section 4 of the said Act are repealed and the following substituted therefor:

2. The number of persons signing the agreement shall be, in the case of a society in a territorial district or provisional county, at least 25 and elsewhere in Ontario, at least 50.

3. Every person who signs the agreement shall pay to the person having charge thereof the sum of \$2 as a membership fee and all such sums become the property of the society upon its organization, and, where no society is organized, the sums shall be repaid to the persons entitled thereto.

.

5. The organization meeting shall be held as soon as practicable after the required number of signatures are obtained or at such other time as the Director authorizes, upon at least one week's notice published in a newspaper having a general circulation in the area in which the society is to be organized.

.

7. At the organization meeting there shall be elected a board of directors composed of a president, first vice-president and second vice-president to hold office until the next annual meeting and ten directors of whom five shall hold office until the next annual meeting and five shall hold office until the next following annual meeting and,

(a) where any member of the board so elected has not paid the sum of \$2 required by paragraph 3, he shall pay such sum to the treasurer or secretary-treasurer within two weeks of the election; and

(b) where the Director has so authorized, there may be elected not more than five additional directors and not more than five junior directors and no person is eligible for election as a junior director who, at the time of the election, is more than twenty-six years of age.

8. At the organization meeting and at every annual meeting there shall be elected two auditors to hold office until the next annual meeting.

5. Subsections 1, 2, 3 and 5 of section 8 of the said Act are repealed and the following substituted therefor: s. 8 (1-3, 5),
re-enacted

(1) Every person of the full age of sixteen years or over is entitled to become a member of a society and every person under the age of sixteen years is entitled to become an associate member of a society. Persons
entitled to
membership

(2) Subject to the by-laws of a society, a partnership or incorporated company or an association directed towards horticultural interests may become a member of the society upon payment of the prescribed fee but, in every such case, the partnership, company or association shall delegate one person to exercise the privilege of membership in the society. Partnership,
corporation
or associa-
tion may
be member

(3) In every society there shall be an annual membership fee of not less than \$1. Membership
fee

.

(5) Every full member in good standing of a society is entitled to vote on all questions coming before a regular or special meeting of the society. Voting of
members

6. Clauses *b*, *c* and *f* of subsection 1 of section 9 of the said Act are repealed and the following substituted therefor: s. 9 (1),
(b), (c), (f),
re-enacted

(b) by encouraging the improvement of private and public grounds, including highways and streets, by the planting of trees, shrubs and flowers, and by otherwise promoting outdoor art, public beautification, balcony gardening, therapeutic use of horticulture, community gardens and plot gardening;

(c) by interesting youth and others in the study of horticulture by the holding of meetings, field trips, contests and competitions and by such other means as the society considers proper;

.

(f) by promoting the protection of the environment with appropriate horticultural projects; and

(g) by promoting the circulation of horticultural information through all available media including periodicals and provision of books for libraries.

s. 11,
amended

7. Section 11 of the said Act is amended by adding thereto the following subsection:

ex officio
member

(2) Where there is an immediate past president of a society he is *ex officio* a member of the board of directors.

s. 13 (1),
re-enacted

8. Subsection 1 of section 13 of the said Act is repealed and the following substituted therefor:

Statement
to be sent
to Minister

(1) A statement of officers and members and a copy of the financial statement in the form prescribed by the Minister and certified by the president, secretary-treasurer or secretary and treasurer, and auditors to be true copies shall be forwarded to the Director within ninety days of the holding of the annual meeting.

s. 15 (2),
re-enacted

9. Subsection 2 of section 15 of the said Act is repealed and the following substituted therefor:

Quorum

(2) One-third of the members of the board constitutes a quorum.

ss. 19, 20,
re-enacted

10. Sections 19 and 20 of the said Act are repealed and the following substituted therefor:

Payment
of grants

19. Grants shall be paid to societies out of moneys appropriated therefor by the Legislature according to the following plan:

1. Every society shall, during the first year of its existence, receive a grant amounting to \$2 for every paid-up member as of the 1st day of July, but no such grant shall exceed \$200.

2. Subject to paragraph 3, every society that has been in existence for more than one year shall receive a grant amounting to,

(a) \$1 for every paid-up member during the previous year; and

(b) one-half of the total amount expended by the society during the preceding year for the pur-

pose of carrying out its objects, and, for the purpose of this clause, up to one-quarter of the amount expended by the society may be composed of the value of donated labour.

3. No grant under paragraph 2 shall exceed,

- (a) in the case of a society with 100 or fewer members, \$500;
- (b) in the case of a society with more than 100 and fewer than 200 members, \$1,000; and
- (c) in the case of a society with 200 members or more, \$1,500.

20. The council of a city, town, village, township, regional municipality, district municipality or county may grant money to any society organized wholly or partly within its limits. ^{Municipal grants}

20a. Every society within the meaning of this Act is entitled to be affiliated with the Ontario Horticultural Association upon payment of the affiliation fees prescribed therefor by the Association. ^{Entitlement to affiliation}

11. This Act comes into force on the day it receives Royal Assent. ^{Commencement}

12. This Act may be cited as *The Horticultural Societies Amendment Act, 1975*. ^{Short title}

An Act to amend
The Horticultural Societies Act

1st Reading

May 29th, 1975

2nd Reading

June 5th, 1975

3rd Reading

June 5th, 1975

THE HON. W. A. STEWART
Minister of Agriculture and Food

5TH SESSION, 29TH LEGISLATURE, ONTARIO
24 ELIZABETH II, 1975

An Act to amend The Highway Traffic Act

THE HON. J. T. CLEMENT
Attorney General

EXPLANATORY NOTE

The amendment increases the limitation period for actions for the recovery of damages occasioned by a motor vehicle from one year to two years. The change was recommended by the Ontario Law Reform Commission in its Report on Limitation of Actions and is complemented by similar amendments to *The Fatal Accidents Act* and *The Trustee Act*.

BILL 89

1975

An Act to amend The Highway Traffic Act

HER MAJESTY, by and with the advice and consent of the Legislative Assembly of the Province of Ontario, enacts as follows:

1. Subsection 1 of section 146 of *The Highway Traffic Act*, being ^{s. 146 (1),} chapter 202 of the Revised Statutes of Ontario, 1970, is ^{amended} amended by striking out "twelve months" in the third line and inserting in lieu thereof "two years".
2. This Act comes into force on the day it receives Royal Assent. ^{Commence-}
^{ment}
3. This Act may be cited as *The Highway Traffic Amendment* ^{Short title}
Act, 1975.

An Act to amend
The Highway Traffic Act

1st Reading

May 29th, 1975

2nd Reading

3rd Reading

THE HON. J. T. CLEMENT
Attorney General

(Government Bill)

BILL 89

5TH SESSION, 29TH LEGISLATURE, ONTARIO
24 ELIZABETH II, 1975

An Act to amend The Highway Traffic Act

THE HON. J. T. CLEMENT
Attorney General

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ROYAL ANTHROPOLOGICAL INSTITUTE
OF GREAT BRITAIN AND IRELAND

BILL 89

1975

An Act to amend The Highway Traffic Act

HER MAJESTY, by and with the advice and consent of the Legislative Assembly of the Province of Ontario, enacts as follows:

1. Subsection 1 of section 146 of *The Highway Traffic Act*, being s. 146 (1), chapter 202 of the Revised Statutes of Ontario, 1970, is amended by striking out "twelve months" in the third line and inserting in lieu thereof "two years".
amended
2. This Act comes into force on the day it receives Royal Assent.
Commence-
ment
3. This Act may be cited as *The Highway Traffic Amendment Act, 1975*.
Short title

An Act to amend
The Highway Traffic Act

1st Reading

May 29th, 1975

2nd Reading

June 2nd, 1975

3rd Reading

June 2nd, 1975

THE HON. J. T. CLEMENT
Attorney General

5TH SESSION, 29TH LEGISLATURE, ONTARIO
24 ELIZABETH II, 1975

An Act to amend The Fatal Accidents Act

THE HON. J. T. CLEMENT
Attorney General

EXPLANATORY NOTE

The amendment extends the limitation period for actions for damages under the Act from one year to two years. The Bill is complementary to a Bill to amend *The Highway Traffic Act* providing for a similar extension in respect of actions for damages occasioned by a motor vehicle.

An Act to amend The Fatal Accidents Act

HER MAJESTY, by and with the advice and consent of the Legislative Assembly of the Province of Ontario, enacts as follows:

1. Section 5 of *The Fatal Accidents Act*, being chapter 164 of the Revised Statutes of Ontario, 1970, is repealed and the following substituted therefor:
 5. Not more than one action lies for and in respect of the same subject-matter of complaint, and no such action shall be brought after the expiration of two years from the death of the deceased.
2. This Act comes into force on the day it receives Royal Assent.
3. This Act may be cited as *The Fatal Accidents Amendment Act, 1975*.

s. 5,
re-enacted

Limitation
of actions

Commence-
ment

Short title

An Act to amend
The Fatal Accidents Act

1st Reading

May 29th, 1975

2nd Reading

3rd Reading

THE HON. J. T. CLEMENT
Attorney General

(Government Bill)

BILL 90

5TH SESSION, 29TH LEGISLATURE, ONTARIO
24 ELIZABETH II, 1975

An Act to amend The Fatal Accidents Act

THE HON. J. T. CLEMENT
Attorney General

BILL 90

1975

An Act to amend The Fatal Accidents Act

HER MAJESTY, by and with the advice and consent of the Legislative Assembly of the Province of Ontario, enacts as follows:

1. Section 5 of *The Fatal Accidents Act*, being chapter 164 of the Revised Statutes of Ontario, 1970, is repealed and the following substituted therefor:
 5. Not more than one action lies for and in respect of the same subject-matter of complaint, and no such action shall be brought after the expiration of two years from the death of the deceased. s. 5,
re-enacted
Limitation
of actions
2. This Act comes into force on the day it receives Royal Assent. Commence-
ment
3. This Act may be cited as *The Fatal Accidents Amendment Act, 1975*. Short title

An Act to amend
The Fatal Accidents Act

1st Reading

May 29th, 1975

2nd Reading

June 2nd, 1975

3rd Reading

June 2nd, 1975

THE HON. J. T. CLEMENT
Attorney General

5TH SESSION, 29TH LEGISLATURE, ONTARIO
24 ELIZABETH II, 1975

An Act to amend The Trustee Act

THE HON. J. T. CLEMENT
Attorney General

EXPLANATORY NOTE

The amendment extends the limitation period for actions for torts by or against the executor or administrator of the estate of a deceased person from one year to two years. This Bill is complementary to a Bill to amend *The Highway Traffic Act* providing for a similar extension in respect of actions for damages occasioned by a motor vehicle.

BILL 91

1975

An Act to amend The Trustee Act

HER MAJESTY, by and with the advice and consent of the Legislative Assembly of the Province of Ontario, enacts as follows:

1. Subsection 5 of section 38 of *The Trustee Act*, being chapter 470 of the Revised Statutes of Ontario, 1970, is amended by striking out "one year" in the second line and inserting in lieu thereof "two years". s. 38 (5),
amended
2. This Act comes into force on the day it receives Royal Assent. Commence-
ment
3. This Act may be cited as *The Trustee Amendment Act, 1975*. Short title

An Act to amend
The Trustee Act

1st Reading

May 29th, 1975

2nd Reading

3rd Reading

THE HON. J. T. CLEMENT
Attorney General

(Government Bill)

BILL 91

5TH SESSION, 29TH LEGISLATURE, ONTARIO
24 ELIZABETH II, 1975

An Act to amend The Trustee Act

THE HON. J. T. CLEMENT
Attorney General

T O R O N T O

PRINTED BY J. C. THATCHER, QUEEN'S PRINTER FOR ONTARIO

BILL 91

1975

An Act to amend The Trustee Act

HER MAJESTY, by and with the advice and consent of the Legislative Assembly of the Province of Ontario, enacts as follows:

1. Subsection 5 of section 38 of *The Trustee Act*, being chapter 470 of the Revised Statutes of Ontario, 1970, is amended by striking out "one year" in the second line and inserting in lieu thereof "two years". s. 38 (5),
amended
2. This Act comes into force on the day it receives Royal Assent. Commence-
ment
3. This Act may be cited as *The Trustee Amendment Act, 1975*. Short title

All Acts to amend
The Trustee Act

1st Reading

May 29th, 1975

2nd Reading

June 2nd, 1975

3rd Reading

June 2nd, 1975

THE HON. J. T. CLEMENT
Attorney General

5TH SESSION, 29TH LEGISLATURE, ONTARIO
24 ELIZABETH II, 1975

An Act to amend The Mechanics' Lien Act

THE HON. J. T. CLEMENT
Attorney General

TORONTO

PRINTED BY J. C. THATCHER, QUEEN'S PRINTER FOR ONTARIO

EXPLANATORY NOTE

This Bill brings under the mechanics' lien procedures all Crown contracts for public works except those of the Ministry of Transportation and Communications, which are provided for in a Bill to enact *The Ministry of Transportation and Communications Creditors Payment Act, 1975*.

An Act to amend The Mechanics' Lien Act

HER MAJESTY, by and with the advice and consent of the Legislative Assembly of the Province of Ontario, enacts as follows:

- 1.—(1) Subsection 1 of section 1 of *The Mechanics' Lien Act*, ^{s. 1 (1), amended} being chapter 267 of the Revised Statutes of Ontario, 1970, is amended by adding thereto the following clauses:
 - (ba) "Crown" includes Crown agencies to which *The* ^{R.S.O. 1970, c. 100} *Crown Agency Act* applies;
 - (bb) "estate or interest in land" includes a statutory right given or reserved to the Crown to enter any lands or premises of any person or public authority for the purpose of doing any work, construction, repair or maintenance in, upon, through, over or under any such lands or premises.
- (2) Clause *d* of subsection 1 of the said section 1 is amended ^{s. 1 (1) (d), amended} by inserting after "including" in the first line "the Crown".
- (3) Subsection 1 of the said section 1 is further amended ^{s. 1 (1), amended} by adding thereto the following clause:
 - (da) "public work" means the property of the Crown and includes land in which the Crown has an estate or interest, and also includes all works and properties acquired, constructed, extended, enlarged, repaired, equipped or improved at the expense of the Crown, or for the acquisition, construction, repairing, equipping, extending, enlarging or improving of which any public money is appropriated by the Legislature, but not any work for which money is appropriated as a subsidy only.
2. The said Act is amended by adding thereto the following ^{s. 1a, enacted} section:

Application
of Act

1975, c. ...

1a.—(1) Subject to subsection 2 of section 5, this Act binds the Crown but does not apply in respect of work under a contract as defined in *The Ministry of Transportation and Communications Creditors Payment Act, 1975* and to which that Act applies.

Application
of
R.S.O. 1970,
c. 365, s. 7

(2) Section 7 of *The Proceedings Against the Crown Act* does not apply in respect of proceedings against the Crown under this Act.

s. 2 (4),
amended

3. Subsection 4 of section 2 of the said Act is amended by inserting after "than" in the first line "the Crown".

s. 5 (2),
re-enacted

4. Subsection 2 of section 5 of the said Act is repealed and the following substituted therefor:

Where lien
against
Crown or
municipality

(2) Where the land or premises upon or in respect of which any work is done or materials are placed or furnished is,

(a) a public street or highway owned by a municipality;
or

(b) a public work,

the lien given by subsection 1 does not in any event attach to such land or premises but shall instead constitute a charge on amounts directed to be retained by section 11, and the provisions of this Act shall be construed, *mutatis mutandis*, to have effect without requiring the registration or enforcement of a lien or a claim for lien against such land or premises.

s. 11 (3),
amended

5.—(1) Subsection 3 of section 11 of the said Act is amended by striking out "and section 23" in the sixth line and inserting in lieu thereof "section 23 and section 23a".

s. 11 (5),
re-enacted

(2) Subsection 5 of the said section 11 is repealed and the following substituted therefor:

Charge on
holdback

(5) The lien is a charge upon the amount directed to be retained by this section in favour of lien claimants whose liens are derived under persons to whom the moneys so required to be retained are respectively payable.

Charge on
further
amounts
payable in
case of
Crown or
Municipality

(5a) Where the lien does not attach to the land by virtue of subsection 2 of section 5, and a person claiming a lien gives to the owner, or a contractor or subcontractor notice in writing of the lien, the owner, contractor or subcontractor so notified shall retain out of amounts payable to the contractor or subcontractor under whom the lien is derived an amount equal to the amount claimed in the notice.

- (3) Subsection 7 of the said section 11 is amended by striking out "proceedings have been commenced to enforce any lien or charge against the percentage as provided by sections 22 and 23" in the fifth and sixth lines and inserting in lieu thereof "the appropriate steps have been taken to preserve the lien as provided by sections 22 and 23, or 22a and 23a, as the case may be". s. 11 (7),
amended
6. Section 12 of the said Act is amended by striking out "or to any person who but for subsection 2 of that section would be entitled to a lien under that section" in the second, third and fourth lines. s. 12,
amended
7. Subsection 1 of section 18 of the said Act is amended by inserting after "17" in the first line "21a". s. 18 (1),
amended
8. Subsection 5 of section 21 of the said Act is repealed. s. 21 (5),
repealed
9. The said Act is further amended by adding thereto the following section: s. 21a,
enacted
- 21a.—(1) Without limiting the generality of subsection 2 of section 5, where the lien does not attach to the land by virtue of subsection 2 of section 5, sections 16, 17, 19 and 20 do not apply. Crown and
municipal
contracts
- (2) Where the lien does not attach to the land by virtue of subsection 2 of section 5, any person who is claiming a lien shall give notice thereof in writing to the owner in the manner hereafter provided. Notice of
claim to
hold back
- (3) Where the claim is in respect of a public street or highway owned by a municipality, the notice required to be given to the owner by subsection 2 shall be given to the clerk of the municipality. Service on
municipality
- (4) Where the claim is in respect of a public work, the notice required by subsection 2 to be given to the owner shall be given to the Ministry or Crown agency for whom the work is done or the materials are placed or furnished. Service on
Crown
- (5) The notice required by subsection 2 shall be given within the time allowed for registration under section 21. Time for
service
- (6) The notice required by subsection 2 may be served personally, or it may be sent by registered mail, in which case the date of mailing shall be deemed to be the date on which the notice was given. Method of
service
- (7) The notice required shall set out, Contents of
notice

- (a) the name and address of the person making the claim and of the person for whom the work was done or the materials were placed or furnished, and the time within which the same was done or placed or furnished;
- (b) a short description of the work done or the materials placed or furnished;
- (c) the sum claimed as due;
- (d) the address or a description of the location of the land;
- (e) the date of expiry of the period of credit if credit has been given.

Verification

(8) The matters set out in the notice shall be verified by the affidavit of the person claiming the lien, or his agent or assignee who has a personal knowledge of the matters, and the affidavit of the agent or assignee shall state that he has such knowledge.

s. 22, amended

- 10.** Section 22 of the said Act is amended by adding thereto the following subsection:

Not applicable to Crown and municipal contracts

(4) This section does not apply to liens which, by virtue of subsection 2 of section 5, do not attach to the land.

s. 22a, enacted

- 11.** The said Act is further amended by adding thereto the following section:

Time for claiming liens against Crown and muni- cipalities

22a. Where the lien does not attach to the land by virtue of subsection 2 of section 5, every lien for which notice has not been given as required by section 21a ceases to exist at the expiration of the time limited in section 21a for giving notice of claim thereof.

s. 23 (2, 3), repealed

- 12.** Subsections 2 and 3 of section 23 of the said Act are repealed.

s. 23a, enacted

- 13.** The said Act is further amended by adding thereto the following section:

Expiration of liens against Crown and muni- cipalities

23a. Every lien which by virtue of subsection 2 of section 5 does not attach to the land ceases to exist on the expiration of ninety days after,

- (a) the work has been completed or abandoned;
- (b) the materials have been placed or furnished; or

- (c) the expiry of the period of credit, where such period is mentioned in the notice referred to in section 21a,

unless in the meantime an action under this Act is commenced to realize the claim or in which a subsisting claim may be realized.

14. Section 49 of the said Act is repealed and the following substituted therefor: s. 49,
re-enacted

49. The Lieutenant Governor in Council may make regulations, Regulations

- (a) prescribing forms and providing for their use;
- (b) providing for and requiring the posting of notices on building sites;
- (c) prescribing the appropriate offices of the Crown to which notice of a claim for lien must be sent.

- 15.—(1) This Act comes into force on a day to be named by proclamation of the Lieutenant Governor. Commence-
ment

- (2) This Act does not apply in respect of work done or materials supplied or furnished under a contract entered into before this Act comes into force or under any sub-contract entered into directly or indirectly under such contract. Application

16. This Act may be cited as *The Mechanics' Lien Amendment Act, 1975*. Short title

An Act to amend
The Mechanics' Lien Act

1st Reading

May 29th, 1975

2nd Reading

3rd Reading

THE HON. J. T. CLEMENT
Attorney General

(Government Bill)

5TH SESSION, 29TH LEGISLATURE, ONTARIO
24 ELIZABETH II, 1975

An Act to amend The Mechanics' Lien Act

THE HON. J. T. CLEMENT
Attorney General

(Reprinted as amended by the Committee of the Whole House)

EXPLANATORY NOTE

This Bill brings under the mechanics' lien procedures all Crown contracts for public works except those of the Ministry of Transportation and Communications, which are provided for in a Bill to enact *The Ministry of Transportation and Communications Creditors Payment Act, 1975*.

An Act to amend The Mechanics' Lien Act

HER MAJESTY, by and with the advice and consent of the Legislative Assembly of the Province of Ontario, enacts as follows:

- 1.—(1) Subsection 1 of section 1 of *The Mechanics' Lien Act*, ^{s. 1 (1), amended} being chapter 267 of the Revised Statutes of Ontario, 1970, is amended by adding thereto the following clauses:
 - (ba) "Crown" includes Crown agencies to which *The* ^{R.S.O. 1970, c. 100} *Crown Agency Act* applies;
 - (bb) "estate or interest in land" includes a statutory right given or reserved to the Crown to enter any lands or premises of any person or public authority for the purpose of doing any work, construction, repair or maintenance in, upon, through, over or under any such lands or premises.
- (2) Clause *d* of subsection 1 of the said section 1 is amended ^{s. 1 (1) (d), amended} by inserting after "including" in the first line "the Crown".
- (3) Subsection 1 of the said section 1 is further amended ^{s. 1 (1), amended} by adding thereto the following clause:
 - (da) "public work" means the property of the Crown and includes land in which the Crown has an estate or interest, and also includes all works and properties acquired, constructed, extended, enlarged, repaired, equipped or improved at the expense of the Crown, or for the acquisition, construction, repairing, equipping, extending, enlarging or improving of which any public money is appropriated by the Legislature, but not any work for which money is appropriated as a subsidy only.
2. The said Act is amended by adding thereto the following ^{s. 1a, enacted} section:

Application
of Act

1975, c. ...

1a.—(1) Subject to subsection 2 of section 5, this Act binds the Crown but does not apply in respect of work under a contract as defined in *The Ministry of Transportation and Communications Creditors Payment Act, 1975* and to which that Act applies.

Application
of
R.S.O. 1970,
c. 365, s. 7

(2) Section 7 of *The Proceedings Against the Crown Act* does not apply in respect of proceedings against the Crown under this Act.

s. 2 (4),
amended

3. Subsection 4 of section 2 of the said Act is amended by inserting after "than" in the first line "the Crown".

s. 5 (2),
re-enacted

4. Subsection 2 of section 5 of the said Act is repealed and the following substituted therefor:

Where lien
against
Crown or
municipality

(2) Where the land or premises upon or in respect of which any work is done or materials are placed or furnished is,

(a) a public street or highway owned by a municipality;
or

(b) a public work,

the lien given by subsection 1 does not in any event attach to such land or premises but shall instead constitute a charge on amounts directed to be retained by section 11, and the provisions of this Act shall be construed, *mutatis mutandis*, to have effect without requiring the registration or enforcement of a lien or a claim for lien against such land or premises.

s. 11 (3),
amended

5.—(1) Subsection 3 of section 11 of the said Act is amended by striking out "and section 23" in the sixth line and inserting in lieu thereof "section 23 and section 23a".

s. 11 (5),
re-enacted

(2) Subsection 5 of the said section 11 is repealed and the following substituted therefor:

Charge on
holdback

(5) The lien is a charge upon the amount directed to be retained by this section in favour of lien claimants whose liens are derived under persons to whom the moneys so required to be retained are respectively payable.

Charge on
further
amounts
payable in
case of
Crown or
Municipality

(5a) Where the lien does not attach to the land by virtue of subsection 2 of section 5, and a person claiming a lien gives to the owner, or a contractor or subcontractor notice in writing of the lien, the owner, contractor or subcontractor so notified shall retain out of amounts payable to the contractor or subcontractor under whom the lien is derived an amount equal to the amount claimed in the notice.

- (3) Subsection 7 of the said section 11 is amended by striking out "proceedings have been commenced to enforce any lien or charge against the percentage as provided by sections 22 and 23" in the fifth and sixth lines and inserting in lieu thereof "the appropriate steps have been taken to preserve the lien as provided by sections 22 and 23, or 22a and 23a, as the case may be". s. 11 (7),
amended
6. Section 12 of the said Act is amended by striking out "or to any person who but for subsection 2 of that section would be entitled to a lien under that section" in the second, third and fourth lines. s. 12,
amended
7. Subsection 1 of section 18 of the said Act is amended by inserting after "17" in the first line "21a". s. 18 (1),
amended
8. Subsection 5 of section 21 of the said Act is repealed. s. 21 (5),
repealed
9. The said Act is further amended by adding thereto the following section: s. 21a,
enacted
- 21a.—(1) Without limiting the generality of subsection 2 of section 5, where the lien does not attach to the land by virtue of subsection 2 of section 5, sections 16, 17, 19 and 20 do not apply. Crown and
municipal
contracts
- (2) Where the lien does not attach to the land by virtue of subsection 2 of section 5, any person who is claiming a lien shall give notice thereof in writing to the owner in the manner hereafter provided. Notice of
claim to
hold back
- (3) Where the claim is in respect of a public street or highway owned by a municipality, the notice required to be given to the owner by subsection 2 shall be given to the clerk of the municipality. Service on
municipality
- (4) Where the claim is in respect of a public work, the notice required by subsection 2 to be given to the owner shall be given to the Ministry or Crown agency for whom the work is done or the materials are placed or furnished, or to such office as is prescribed by the regulations. Service on
Crown
- (5) The notice required by subsection 2 shall be given within the time allowed for registration under section 21. Time for
service
- (6) The notice required by subsection 2 may be served personally, or it may be sent by registered mail, in which case the date of mailing shall be deemed to be the date on which the notice was given. Method of
service

Contents of
notice

(7) The notice required shall set out,

- (a) the name and address of the person making the claim and of the person for whom the work was done or the materials were placed or furnished, and the time within which the same was done or placed or furnished;
- (b) a short description of the work done or the materials placed or furnished;
- (c) the sum claimed as due;
- (d) the address or a description of the location of the land;
- (e) the date of expiry of the period of credit if credit has been given.

Verification

(8) The matters set out in the notice shall be verified by the affidavit of the person claiming the lien, or his agent or assignee who has a personal knowledge of the matters, and the affidavit of the agent or assignee shall state that he has such knowledge.

s. 22,
amended

10. Section 22 of the said Act is amended by adding thereto the following subsection:

Not
applicable
to Crown and
municipal
contracts

(4) This section does not apply to liens which, by virtue of subsection 2 of section 5, do not attach to the land.

s. 22a,
enacted

11. The said Act is further amended by adding thereto the following section:

Time for
claiming
liens
against
Crown
and muni-
cipalities

22a. Where the lien does not attach to the land by virtue of subsection 2 of section 5, every lien for which notice has not been given as required by section 21a ceases to exist at the expiration of the time limited in section 21a for giving notice of claim thereof.

s. 23 (2, 3),
repealed

12. Subsections 2 and 3 of section 23 of the said Act are repealed.

s. 23a,
enacted

13. The said Act is further amended by adding thereto the following section:

Expiration
of liens
against
Crown
and muni-
cipalities

23a. Every lien which by virtue of subsection 2 of section 5 does not attach to the land ceases to exist on the expiration of ninety days after,

- (a) the work has been completed or abandoned;
- (b) the materials have been placed or furnished; or

- (c) the expiry of the period of credit, where such period is mentioned in the notice referred to in section 21a,

unless in the meantime an action under this Act is commenced to realize the claim or in which a subsisting claim may be realized.

- 14.** Section 49 of the said Act is repealed and the following substituted therefor: s. 49,
re-enacted

49. The Lieutenant Governor in Council may make regulations, Regulations

- (a) prescribing forms and providing for their use;
- (b) providing for and requiring the posting of notices on building sites;
- (c) prescribing the appropriate offices of the Crown to which notice of a claim for lien must be sent.

- 15.**—(1) This Act comes into force on a day to be named by proclamation of the Lieutenant Governor. Commence-
ment

- (2) This Act does not apply in respect of work done or materials supplied or furnished under a contract entered into before this Act comes into force or under any sub-contract entered into directly or indirectly under such contract. Application

- 16.** This Act may be cited as *The Mechanics' Lien Amendment Act, 1975*. Short title

An Act to amend
The Mechanics' Lien Act

1st Reading

May 29th, 1975

2nd Reading

June 10th, 1975

3rd Reading

THE HON. J. T. CLEMENT
Attorney General

(Reprinted as amended by the
Committee of the Whole House)

BILL 92

5TH SESSION, 29TH LEGISLATURE, ONTARIO
24 ELIZABETH II, 1975

An Act to amend The Mechanics' Lien Act

THE HON. J. T. CLEMENT
Attorney General

An Act to amend The Mechanics' Lien Act

HER MAJESTY, by and with the advice and consent of the Legislative Assembly of the Province of Ontario, enacts as follows:

- 1.—(1) Subsection 1 of section 1 of *The Mechanics' Lien Act*, ^{s. 1 (1), amended} being chapter 267 of the Revised Statutes of Ontario, 1970, is amended by adding thereto the following clauses:
 - (ba) "Crown" includes Crown agencies to which *The Crown Agency Act* applies; ^{R.S.O. 1970, c. 100}
 - (bb) "estate or interest in land" includes a statutory right given or reserved to the Crown to enter any lands or premises of any person or public authority for the purpose of doing any work, construction, repair or maintenance in, upon, through, over or under any such lands or premises.
 - (2) Clause *d* of subsection 1 of the said section 1 is amended ^{s. 1 (1) (d), amended} by inserting after "including" in the first line "the Crown".
 - (3) Subsection 1 of the said section 1 is further amended ^{s. 1 (1), amended} by adding thereto the following clause:
 - (da) "public work" means the property of the Crown and includes land in which the Crown has an estate or interest, and also includes all works and properties acquired, constructed, extended, enlarged, repaired, equipped or improved at the expense of the Crown, or for the acquisition, construction, repairing, equipping, extending, enlarging or improving of which any public money is appropriated by the Legislature, but not any work for which money is appropriated as a subsidy only.
2. The said Act is amended by adding thereto the following ^{s. 1a, enacted} section:

Application
of Act

1975, c. ...

1a.—(1) Subject to subsection 2 of section 5, this Act binds the Crown but does not apply in respect of work under a contract as defined in *The Ministry of Transportation and Communications Creditors Payment Act, 1975* and to which that Act applies.

Application
of
R.S.O. 1970,
c. 365, s. 7

(2) Section 7 of *The Proceedings Against the Crown Act* does not apply in respect of proceedings against the Crown under this Act.

s. 2 (4),
amended

3. Subsection 4 of section 2 of the said Act is amended by inserting after "than" in the first line "the Crown".

s. 5 (2),
re-enacted

4. Subsection 2 of section 5 of the said Act is repealed and the following substituted therefor:

Where lien
against
Crown or
municipality

(2) Where the land or premises upon or in respect of which any work is done or materials are placed or furnished is,

(a) a public street or highway owned by a municipality;
or

(b) a public work,

the lien given by subsection 1 does not in any event attach to such land or premises but shall instead constitute a charge on amounts directed to be retained by section 11, and the provisions of this Act shall be construed, *mutatis mutandis*, to have effect without requiring the registration or enforcement of a lien or a claim for lien against such land or premises.

s. 11 (3),
amended

5.—(1) Subsection 3 of section 11 of the said Act is amended by striking out "and section 23" in the sixth line and inserting in lieu thereof "section 23 and section 23a".

s. 11 (5),
re-enacted

(2) Subsection 5 of the said section 11 is repealed and the following substituted therefor:

Charge on
holdback

(5) The lien is a charge upon the amount directed to be retained by this section in favour of lien claimants whose liens are derived under persons to whom the moneys so required to be retained are respectively payable.

Charge on
further
amounts
payable in
case of
Crown or
Municipality

(5a) Where the lien does not attach to the land by virtue of subsection 2 of section 5, and a person claiming a lien gives to the owner, or a contractor or subcontractor notice in writing of the lien, the owner, contractor or subcontractor so notified shall retain out of amounts payable to the contractor or subcontractor under whom the lien is derived an amount equal to the amount claimed in the notice.

- (3) Subsection 7 of the said section 11 is amended by striking out "proceedings have been commenced to enforce any lien or charge against the percentage as provided by sections 22 and 23" in the fifth and sixth lines and inserting in lieu thereof "the appropriate steps have been taken to preserve the lien as provided by sections 22 and 23, or 22*a* and 23*a*, as the case may be". s. 11 (7),
amended
6. Section 12 of the said Act is amended by striking out "or to any person who but for subsection 2 of that section would be entitled to a lien under that section" in the second, third and fourth lines. s. 12,
amended
7. Subsection 1 of section 18 of the said Act is amended by inserting after "17" in the first line "21*a*". s. 18 (1),
amended
8. Subsection 5 of section 21 of the said Act is repealed. s. 21 (5),
repealed
9. The said Act is further amended by adding thereto the following section: s. 21*a*,
enacted
- 21*a*.—(1) Without limiting the generality of subsection 2 of section 5, where the lien does not attach to the land by virtue of subsection 2 of section 5, sections 16, 17, 19 and 20 do not apply. Crown and
municipal
contracts
- (2) Where the lien does not attach to the land by virtue of subsection 2 of section 5, any person who is claiming a lien shall give notice thereof in writing to the owner in the manner hereafter provided. Notice of
claim to
hold back
- (3) Where the claim is in respect of a public street or highway owned by a municipality, the notice required to be given to the owner by subsection 2 shall be given to the clerk of the municipality. Service on
municipality
- (4) Where the claim is in respect of a public work, the notice required by subsection 2 to be given to the owner shall be given to the Ministry or Crown agency for whom the work is done or the materials are placed or furnished, or to such office as is prescribed by the regulations. Service on
Crown
- (5) The notice required by subsection 2 shall be given within the time allowed for registration under section 21. Time for
service
- (6) The notice required by subsection 2 may be served personally, or it may be sent by registered mail, in which case the date of mailing shall be deemed to be the date on which the notice was given. Method of
service

Contents of
notice

(7) The notice required shall set out,

- (a) the name and address of the person making the claim and of the person for whom the work was done or the materials were placed or furnished, and the time within which the same was done or placed or furnished;
- (b) a short description of the work done or the materials placed or furnished;
- (c) the sum claimed as due;
- (d) the address or a description of the location of the land;
- (e) the date of expiry of the period of credit if credit has been given.

Verification

(8) The matters set out in the notice shall be verified by the affidavit of the person claiming the lien, or his agent or assignee who has a personal knowledge of the matters, and the affidavit of the agent or assignee shall state that he has such knowledge.

s. 22,
amended

10. Section 22 of the said Act is amended by adding thereto the following subsection:

Not
applicable
to Crown and
municipal
contracts

(4) This section does not apply to liens which, by virtue of subsection 2 of section 5, do not attach to the land.

s. 22a,
enacted

11. The said Act is further amended by adding thereto the following section:

Time for
claiming
liens
against
Crown
and muni-
cipalities

22a. Where the lien does not attach to the land by virtue of subsection 2 of section 5, every lien for which notice has not been given as required by section 21a ceases to exist at the expiration of the time limited in section 21a for giving notice of claim thereof.

s. 23 (2, 3),
repealed

12. Subsections 2 and 3 of section 23 of the said Act are repealed.

s. 23a,
enacted

13. The said Act is further amended by adding thereto the following section:

Expiration
of liens
against
Crown
and muni-
cipalities

23a. Every lien which by virtue of subsection 2 of section 5 does not attach to the land ceases to exist on the expiration of ninety days after,

- (a) the work has been completed or abandoned;
- (b) the materials have been placed or furnished; or

- (c) the expiry of the period of credit, where such period is mentioned in the notice referred to in section 21a,

unless in the meantime an action under this Act is commenced to realize the claim or in which a subsisting claim may be realized.

- 14.** Section 49 of the said Act is repealed and the following substituted therefor: s. 49, re-enacted

49. The Lieutenant Governor in Council may make regulations, Regulations

- (a) prescribing forms and providing for their use;
- (b) providing for and requiring the posting of notices on building sites;
- (c) prescribing the appropriate offices of the Crown to which notice of a claim for lien must be sent.

- 15.—**(1) This Act comes into force on a day to be named by proclamation of the Lieutenant Governor. Commencement

- (2) This Act does not apply in respect of work done or materials supplied or furnished under a contract entered into before this Act comes into force or under any sub-contract entered into directly or indirectly under such contract. Application

- 16.** This Act may be cited as *The Mechanics' Lien Amendment Act, 1975*. Short title

An Act to amend
The Mechanics' Lien Act

1st Reading

May 29th, 1975

2nd Reading

June 10th, 1975

3rd Reading

June 10th, 1975

THE HON. J. T. CLEMENT
Attorney General

5TH SESSION, 29TH LEGISLATURE, ONTARIO
24 ELIZABETH II, 1975

**The Ministry of Transportation and Communications
Creditors Payment Act, 1975**

THE HON. J. R. RHODES
Minister of Transportation
and Communications

TORONTO

PRINTED BY J. C. THATCHER, QUEEN'S PRINTER FOR ONTARIO

EXPLANATORY NOTE

The Bill makes the provisions of *The Public Works Creditors Payment Act* apply only to contracts of the Ministry of Transportation and Communications. The remaining Ministries are being brought under the procedures of *The Mechanics' Lien Act* by an amendment to that Act.

BILL 93

1975

**The Ministry of Transportation
and Communications Creditors
Payment Act, 1975**

HER MAJESTY, by and with the advice and consent of the Legislative Assembly of the Province of Ontario, enacts as follows:

1. In this Act,

Interpre-
tation

- (a) "claimant" means a creditor who has sent a notice under subsection 1 of section 2;
- (b) "contract" means a written agreement between the Minister and a person for the performance of work and under which the Minister is obligated to pay for the total cost thereof;
- (c) "contractor" means a person who enters into a contract with the Minister;
- (d) "creditor" means a person who supplies labour, materials or services used or reasonably required for use in the performance of work as set out in a contract;
- (e) "Minister" means the Minister of Transportation and Communications;
- (f) "Ministry" means the Ministry of Transportation and Communications;
- (g) "person" means an individual, partnership or corporation but does not include a municipal corporation;
- (h) "surety" means a person who guarantees to the Minister the payment of creditors under a bond with the Minister;

- (i) "work" means a construction, reconstruction, improvement, alteration, expansion, addition to, repair or maintenance of property.

Service of
notice of
non-payment

2.—(1) Where a contractor does not pay a creditor in accordance with his obligation to do so under the contract, the creditor may, not later than 120 days after the last day on which the labour, materials or services were provided, send to the appropriate office of the Ministry by registered mail a notice setting out the nature and amount of his claim.

Payment
of claim

(2) The Minister may, after notice in writing to the contractor and surety, if any, pay the claimant the amount settled upon and deduct the amount so paid from any moneys due or that may become due to the contractor on any account or from the moneys or securities, if any, deposited by the contractor with the Ministry, and, if there are insufficient moneys due or to become due to the contractor to permit of such deduction, the surety, if any, shall pay to the Ministry upon demand an amount sufficient to make up the deficiency.

Amount
paid final

(3) In paying a claim under subsection 2, the Minister may act upon any evidence that he considers sufficient and may compromise any disputed liability, and such payment is not open to dispute or question by the contractor or the surety, if any, but is final and binding upon them.

Minister
may demand
list of
creditors

3. The Minister may, in writing, require a contractor to send to him by registered mail, within fifteen days from the date of the mailing of the demand, a list of the names of and the amounts owing to his creditors.

Contractors
to display
s. 2 (1)

4. Every contractor shall display and keep displayed in a conspicuous place where the work is being performed a copy of subsection 1 of section 2.

Offences

5. A contractor who does not file a list when required to do so under section 3 or who does not display and keep displayed a copy of subsection 1 of section 2 as required by section 4 is guilty of an offence and on summary conviction is liable to a fine of not less than \$10 and not more than \$100 for every day during which the default continues.

Regulations

6.—(1) The Lieutenant Governor in Council may make regulations,

- (a) extending or reducing the periods of time referred to in sections 2 and 3;

- (b) providing for and requiring notices in addition to the notice mentioned in section 2;
- (c) respecting any matter necessary or advisable to carry out effectively the intent and purpose of this Act.

(2) Any regulation made under subsection 1 or any ^{Application} provision thereof may be made applicable in respect of any class or classes of contractor.

7.—(1) This Act comes into force on a day to be named ^{Commence-} by proclamation of the Lieutenant Governor. _{ment}

(2) This Act does not apply in respect of contracts ^{Application} entered into before this Act comes into force or to sub-contracts entered into directly or indirectly under such contract.

8. This Act may be cited as *The Ministry of Trans-* ^{Short title} *portation and Communications Creditors Payment Act, 1975.*

The Ministry of Transportation
and Communications Creditors
Payment Act, 1975

1st Reading

May 29th, 1975

2nd Reading

3rd Reading

THE HON. J. R. RHODES
Minister of Transportation
and Communications

(Government Bill)

BILL 93

5TH SESSION, 29TH LEGISLATURE, ONTARIO
24 ELIZABETH II, 1975

The Ministry of Transportation and Communications Creditors Payment Act, 1975

THE HON. J. R. RHODES
Minister of Transportation
and Communications

TORONTO

PRINTED BY J. C. THATCHER, QUEEN'S PRINTER FOR ONTARIO

BILL 93

1975

**The Ministry of Transportation
and Communications Creditors
Payment Act, 1975**

HER MAJESTY, by and with the advice and consent of the Legislative Assembly of the Province of Ontario, enacts as follows:

1. In this Act,

Interpre-
tation

- (a) "claimant" means a creditor who has sent a notice under subsection 1 of section 2;
- (b) "contract" means a written agreement between the Minister and a person for the performance of work and under which the Minister is obligated to pay for the total cost thereof;
- (c) "contractor" means a person who enters into a contract with the Minister;
- (d) "creditor" means a person who supplies labour, materials or services used or reasonably required for use in the performance of work as set out in a contract;
- (e) "Minister" means the Minister of Transportation and Communications;
- (f) "Ministry" means the Ministry of Transportation and Communications;
- (g) "person" means an individual, partnership or corporation but does not include a municipal corporation;
- (h) "surety" means a person who guarantees to the Minister the payment of creditors under a bond with the Minister;

- (i) "work" means a construction, reconstruction, improvement, alteration, expansion, addition to, repair or maintenance of property.

Service of
notice of
non-payment

2.—(1) Where a contractor does not pay a creditor in accordance with his obligation to do so under the contract, the creditor may, not later than 120 days after the last day on which the labour, materials or services were provided, send to the appropriate office of the Ministry by registered mail a notice setting out the nature and amount of his claim.

Payment
of claim

(2) The Minister may, after notice in writing to the contractor and surety, if any, pay the claimant the amount settled upon and deduct the amount so paid from any moneys due or that may become due to the contractor on any account or from the moneys or securities, if any, deposited by the contractor with the Ministry, and, if there are insufficient moneys due or to become due to the contractor to permit of such deduction, the surety, if any, shall pay to the Ministry upon demand an amount sufficient to make up the deficiency.

Amount
paid final

(3) In paying a claim under subsection 2, the Minister may act upon any evidence that he considers sufficient and may compromise any disputed liability, and such payment is not open to dispute or question by the contractor or the surety, if any, but is final and binding upon them.

Minister
may demand
list of
creditors

3. The Minister may, in writing, require a contractor to send to him by registered mail, within fifteen days from the date of the mailing of the demand, a list of the names of and the amounts owing to his creditors.

Contractors
to display
s. 2 (1)

4. Every contractor shall display and keep displayed in a conspicuous place where the work is being performed a copy of subsection 1 of section 2.

Offences

5. A contractor who does not file a list when required to do so under section 3 or who does not display and keep displayed a copy of subsection 1 of section 2 as required by section 4 is guilty of an offence and on summary conviction is liable to a fine of not less than \$10 and not more than \$100 for every day during which the default continues.

Regulations

6.—(1) The Lieutenant Governor in Council may make regulations,

- (a) extending or reducing the periods of time referred to in sections 2 and 3;

- (b) providing for and requiring notices in addition to the notice mentioned in section 2;
- (c) respecting any matter necessary or advisable to carry out effectively the intent and purpose of this Act.

(2) Any regulation made under subsection 1 or any provision thereof may be made applicable in respect of any class or classes of contractor. Application

7.—(1) This Act comes into force on a day to be named by proclamation of the Lieutenant Governor. Commence-
ment

(2) This Act does not apply in respect of contracts entered into before this Act comes into force or to sub-contracts entered into directly or indirectly under such contract. Application

8. This Act may be cited as *The Ministry of Transportation and Communications Creditors Payment Act, 1975*. Short title

The Ministry of Transportation
and Communications Creditors
Payment Act, 1975

1st Reading

May 29th, 1975

2nd Reading

June 10th, 1975

3rd Reading

June 10th, 1975

THE HON. J. R. RHODES
Minister of Transportation
and Communications

5TH SESSION, 29TH LEGISLATURE, ONTARIO
24 ELIZABETH II, 1975

**An Act to repeal
The Public Works Creditors Payment Act**

THE HON. J. T. CLEMENT
Attorney General

TORONTO

PRINTED BY J. C. THATCHER, QUEEN'S PRINTER FOR ONTARIO

EXPLANATORY NOTE

This Bill is complementary to a Bill to amend *The Mechanics' Lien Act* and a Bill to enact *The Ministry of Transportation and Communications Creditors Payment Act, 1975*. The provisions repealed are re-enacted, with necessary modification of language, in the Bill to enact *The Ministry of Transportation and Communications Creditors Payment Act, 1975* and limited to apply only to that Ministry.

BILL 94

1975

An Act to repeal The Public Works Creditors Payment Act

HER MAJESTY, by and with the advice and consent of the Legislative Assembly of the Province of Ontario, enacts as follows:

1. *The Public Works Creditors Payment Act*, being chapter ^{Act repealed} 394 of the Revised Statutes of Ontario, 1970, is repealed.

2.—(1) This Act comes into force on a day to be named ^{Commence-} by proclamation of the Lieutenant Governor. ^{ment}

(2) Notwithstanding subsection 1, *The Public Works Creditors Payment Act* continues to apply in respect of work done or materials supplied or furnished under a contract entered into before this Act comes into force and under any sub-contract entered into directly or indirectly under such a contract. ^{Application}

3. This Act may be cited as *The Public Works Creditors Payment Repeal Act, 1975*. ^{Short title}

An Act to repeal
The Public Works Creditors Payment Act

1st Reading

May 29th, 1975

2nd Reading

3rd Reading

THE HON. J. T. CLEMENT
Attorney General

(Government Bill)

BILL 94

5TH SESSION, 29TH LEGISLATURE, ONTARIO
24 ELIZABETH II, 1975

An Act to repeal The Public Works Creditors Payment Act

THE HON. J. T. CLEMENT
Attorney General

BILL 94

1975

**An Act to repeal
The Public Works Creditors Payment Act**

HER MAJESTY, by and with the advice and consent of the Legislative Assembly of the Province of Ontario, enacts as follows:

1. *The Public Works Creditors Payment Act*, being chapter 394 of the Revised Statutes of Ontario, 1970, is repealed. ^{Act repealed}

2.—(1) This Act comes into force on a day to be named ^{Commence-} by proclamation of the Lieutenant Governor. _{ment}

(2) Notwithstanding subsection 1, *The Public Works Creditors Payment Act* continues to apply in respect of work done or materials supplied or furnished under a contract entered into before this Act comes into force and under any sub-contract entered into directly or indirectly under such a contract. ^{Application}

3. This Act may be cited as *The Public Works Creditors Payment Repeal Act, 1975*. ^{Short title}

An Act to repeal
The Public Works Creditors Payment Act

1st Reading

May 29th, 1975

2nd Reading

June 10th, 1975

3rd Reading

June 10th, 1975

THE HON. J. T. CLEMENT
Attorney General

5TH SESSION, 29TH LEGISLATURE, ONTARIO
24 ELIZABETH II, 1975

**An Act to amend
The Health Insurance Act, 1972**

THE HON. F. S. MILLER
Minister of Health

TORONTO

PRINTED BY J. C. THATCHER, QUEEN'S PRINTER FOR ONTARIO

EXPLANATORY NOTES

SECTION 1. The definition of "physician" is re-enacted to clarify that a medical practitioner, for the purposes of this Act, must be qualified to practise medicine in the place where medical services are rendered by him.

SECTION 2.—Subsection 1. The amendment provides that the practitioner review committee for each discipline is a committee of the governing body of the discipline. This is parallel to the provision in respect of the Medical Review Committee in subsection 1 of section 5 of the Act.

Subsection 2. The amendment is complementary to subsection 1 of this section of the Bill. Subsection 6 of section 5a of the Act is parallel to subsection 4 of section 5 of the Act.

SECTION 3. The section provides for the submission of accounts to the Plan by practitioners engaged in the practice of disciplines designated by the regulations in a manner similar to that provided for physicians under section 20 of the Act.

BILL 95

1975

An Act to amend The Health Insurance Act, 1972

HER MAJESTY, by and with the advice and consent of the Legislative Assembly of the Province of Ontario, enacts as follows:

1. Clause *k* of section 1 of *The Health Insurance Act, 1972*, ^{s. 1 (*k*), re-enacted} being chapter 91, is repealed and the following substituted therefor:

(*k*) "physician" means a legally qualified medical practitioner lawfully entitled to practise medicine in the place where medical services are rendered by him.

- 2.—(1) Section 5*a* of the said Act, as enacted by the Statutes of Ontario, 1974, chapter 60, section 2, is amended by ^{s. 5*a*, amended} adding thereto the following subsection:

(1*a*) Every practitioner review committee is a committee ^{Committee of board or college} of the board or college that nominates persons appointed as members of the committee.

- (2) Subsection 6 of the said section 5*a* is amended by striking ^{s. 5*a* (6), amended} out "or the Appeal Board" in the fifth and sixth lines and inserting in lieu thereof "the Appeal Board or the board or college of which it is a committee".

3. The said Act is amended by adding thereto the following ^{s. 20*a*, enacted} section:

20*a*.—(1) A practitioner engaged in the practice of a ^{Billing by practitioner} discipline designated by the regulations may submit his accounts for the performance of insured services directly to the Plan for payment thereof directly to him by notifying the General Manager of his intention to do so in the manner and subject to the requirements prescribed by the regulations.

Methods of
billing
prohibited

(2) Where a practitioner submits his accounts directly to the Plan under this section, he shall thereafter submit all his accounts for the performance of insured services directly to the Plan in accordance with and subject to the requirements of this Act and the regulations.

Require-
ments where
Plan billed

(3) Where a practitioner submits his accounts directly to the Plan under this section,

- (a) payment thereof shall be made directly to him;
- (b) he shall not submit any account for any amount to the patient in respect of insured services; and
- (c) the payment by the Plan for the insured services performed constitutes payment in full of the account therefor.

Notification
about leaving
Plan

(4) A practitioner may at any time notify the General Manager in writing that he intends to cease submitting his accounts directly to the Plan and subsection 3 ceases to apply to him on and after the first day of the third month next following the month in which the General Manager receives such notification.

Plan not
to pay
directly

(5) The General Manager shall not make any payment in respect of the performance of insured services directly to any practitioner engaged in the practice of a discipline designated by the regulations who does not submit his accounts therefor directly to the Plan under this section.

Transitional
provision

(6) Every practitioner engaged in the practice of a discipline designated by the regulations who was submitting his accounts directly to the Plan immediately before the discipline is designated by the regulations for the purpose of this section shall be considered to be one who is submitting his accounts directly to the Plan under this Act.

s. 22 (2),
amended

4.—(1) Subsection 2 of section 22 of the said Act, as re-enacted by the Statutes of Ontario, 1974, chapter 60, section 5, is amended,

- (a) by inserting after "reimbursement" in the seventeenth line "from the physician"; and
- (b) by inserting after "28" in the eighteenth line "and subsections 3 to 9 of section 29".

SECTION 4.—Subsection 1. Subsection 2 of section 22 of the Act provides that the Medical Review Committee may recommend to the General Manager of the Plan that he require and recover reimbursement of any overpayment by the Plan. The amendment provides that the recommendation be for reimbursement from the physician who rendered the service referred to the Committee. The amendment to refer to section 29 of the Act is complementary to the amendment to section 29 contained in this Bill.

Subsection 2. Subsection 3 of section 22 of the Act is a parallel provision in respect of practitioner review committees and practitioners.

SECTION 5. The amendment provides for notice to a physician or practitioner where the General Manager carries out a recommendation of the Medical Review Committee or a practitioner review committee pursuant to subsection 2 or 3 of section 22 of the Act.

SECTION 6. Section 26 of the Act, which states who are parties to a hearing before the Health Services Appeal Board, is re-enacted to state who are parties to a hearing where the General Manager acts under clause *d* of subsection 1 of section 24 of the Act.

SECTION 7.—Subsection 1. The subsection is amended to include the case where the General Manager carries out a recommendation of the Medical Review Committee or a practitioner review committee to require and recover reimbursement of any overpayment by the Plan. This is complementary to the amendment of subsection 1 of section 24 of the Act by this Bill.

- (2) Subsection 3 of the said section 22, as enacted by the Statutes of Ontario, 1974, chapter 60, section 5, is ^{s. 22 (3), amended} amended,

(a) by inserting after "reimbursement" in the twenty-first line "from the practitioner"; and

(b) by inserting after "28" in the twenty-third line "and subsections 3 to 9 of section 29".

5. Subsection 1 of section 24 of the said Act, as amended by the Statutes of Ontario, 1974, chapter 60, section 6, is further ^{s. 24 (1), amended} amended,

(a) by adding thereto the following clause:

(d) carries out a recommendation of the Medical Review Committee or a practitioner review committee that he require and recover reimbursement of any overpayment by the Plan,

and,

(b) by striking out "applicant or claimant" in the eighth and ninth lines and inserting in lieu thereof "applicant, claimant, physician or practitioner, as the case may be".

6. Section 26 of the said Act is repealed and the following substituted therefor: ^{s. 26, re-enacted}

26. The General Manager and,

Parties

(a) in the case of a refusal under clause *a* or *b* of subsection 1 of section 24, the applicant;

(b) in the case of a refusal or reduction under clause *c* of subsection 1 of section 24, the insured person and his physician or practitioner; or

(c) in the case of the carrying out of a recommendation under clause *d* of subsection 1 of section 24, the insured person and his physician or practitioner and the Medical Review Committee or practitioner review committee, as the case may be,

and such other persons as the Appeal Board may specify, are parties to proceedings before the Appeal Board.

- 7.—(1) Subsection 1 of section 29 of the said Act, as amended by the Statutes of Ontario, 1974, chapter 60, section 7, is ^{s. 29 (1), re-enacted} repealed and the following substituted therefor:

Furnishing
reasons to
professional
governing
body

(1) Where a decision of the General Manager to refuse or reduce a payment or to require and recover reimbursement of any overpayment of any amount paid by the Plan on any of the grounds referred to in clauses *a* to *d* of subsection 2 or 3 of section 22 has become final, the General Manager shall furnish the Minister and the governing body of the profession of which the physician or practitioner rendering the services is a member with a copy of the decision and the reasons therefor, and in all other cases the General Manager may furnish such governing body with a copy of the decision and the reasons therefor.

s. 29 (3),
re-enacted

(2) Subsection 3 of the said section 29, as enacted by the Statutes of Ontario, 1974, chapter 60, section 7, is repealed and the following substituted therefor:

Notice

(3) Where a decision of the General Manager to carry out a recommendation referred to in clause *d* of subsection 1 of section 24 has become final in respect of a physician or practitioner who is not submitting his accounts directly to the Plan, the General Manager may serve notice on the physician or practitioner of the amount of the overpayment to be recovered by the General Manager from the physician or practitioner.

Contents
of notice

(4) A notice under subsection 3 shall set out or be accompanied by a written statement that identifies each of the insured services and the amount paid by the Plan for each of the services, and the notice shall inform the physician or practitioner that he is entitled to a hearing by the Appeal Board in respect of the services for the purpose of ensuring that the amount to be recovered from the physician or practitioner in respect of each of the services does not exceed the amount received by the physician or practitioner for the service if the physician or practitioner mails or delivers to the General Manager and to the Appeal Board, within fifteen days after the notice is served on him, notice in writing requiring a hearing and he may so require such a hearing.

Duty of
Board

(5) On a hearing under this section, the Appeal Board shall determine the amount received by the physician or practitioner for each service identified in the statement mentioned in subsection 4, and the amount of the reimbursement to the Plan to be recovered from the physician or practitioner in respect of each of the services shall not exceed the amount that the Appeal Board determines was received by the physician or practitioner for the service.

Subsection 2. Subsection 3 of section 29 of the Act applies to the recovery of money paid by the Plan for services by physicians or practitioners who do not submit their accounts directly to the Plan where the claim is reduced by the General Manager and provides for the recovery by court action. The amendment provides that a physician or practitioner is given the opportunity of a second hearing to ensure that the amount recovered does not exceed the amount actually received by the physician or practitioner for each such service and then for the filing and enforcement of the decision in the same manner as a judge of the Supreme Court.

SECTION 8. Section 30 of the Act relates to the giving of notice under the Act. Under the amendment, service of notice by registered mail will be considered to be made on the seventh, rather than the third, day after the day of mailing.

SECTION 9.—Subsection 1. New clause *ha* provides for the designation of practitioner disciplines by the regulations and is complementary to new section 20*a* of the Act contained in this Bill.

New clause *ka* provides for the making of regulations prescribing services that shall be insured services or not be insured services depending upon the age groups of the persons receiving the services.

(6) The General Manager, the physician or practitioner ^{Parties} and such other persons as the Appeal Board may specify are parties to the proceedings before the Appeal Board under this section.

(7) Subsection 2 of section 25 and sections 27 and 28 ^{Application of ss. 25 (2), 27, 28} apply to proceedings before the Appeal Board under this section.

(8) Where notice is served pursuant to subsection 3 and no hearing is required or no appeal is taken or the decision referred to in subsection 3 is confirmed or varied upon a hearing or an appeal, the General Manager may file a copy of the decision or of the decision as confirmed or varied, including the amount to be recovered from the physician or practitioner by the General Manager for reimbursement to the Plan and excluding the reasons for the decision or for the decision as confirmed or varied, in the office of the Registrar of the Supreme Court and the decision shall be entered and is enforceable in the same way as a judgment of the Supreme Court. ^{Decision may be filed and enforced}

(9) Where the Appeal Board or the Supreme Court ^{Stay of enforcement of decision} extends the time for a hearing or an appeal and a decision has been filed in the office of the Registrar of the Supreme Court, the Appeal Board or the Supreme Court, as the case may be, may stay the enforcement of the decision pending the hearing or appeal.

8. Section 30 of the said Act is amended by striking out "third" ^{s. 30, amended} in the sixth line and inserting in lieu thereof "seventh".

9.—(1) Subsection 1 of section 51 of the said Act, as amended ^{s. 51 (1), amended} by the Statutes of Ontario, 1974, chapter 60, section 12, is further amended by adding thereto the following clauses:

(ha) designating disciplines for the purpose of section 20a;

.

(ka) prescribing services that, notwithstanding any provision of this Act, shall be deemed,

(i) not to be insured services in respect of prescribed age groups of insured persons, or

(ii) to be insured services only in respect of prescribed age groups of insured persons,

but no service or age group shall be prescribed under this clause that disqualifies the Plan as a medical care insurance plan under the *Medical Care Act* (Canada). ^{R.S.C. 1970, c. M-8}

s. 51,
amended

(2) The said section 51, as amended by the Statutes of Ontario, 1974, chapter 60, section 12 and chapter 86, section 4, is further amended by adding thereto the following subsection:

When
regulation
may be
effective

(3) A regulation is, if it so provides, effective with reference to a period before it is filed.

Commence-
ment

10. This Act comes into force on the day it receives Royal Assent.

Short title

11. This Act may be cited as *The Health Insurance Amendment Act, 1975*.

Subsection 2. Self-explanatory.

An Act to amend
The Health Insurance Act, 1972

1st Reading

May 29th, 1975

2nd Reading

3rd Reading

THE HON. F. S. MULLER
Minister of Health

(Government Bill)

5TH SESSION, 29TH LEGISLATURE, ONTARIO
24 ELIZABETH II, 1975

**An Act to amend
The Health Insurance Act, 1972**

THE HON. F. S. MILLER
Minister of Health

(Reprinted as amended by the Committee of the Whole House)

TORONTO

PRINTED BY J. C. THATCHER, QUEEN'S PRINTER FOR ONTARIO

EXPLANATORY NOTES

SECTION 1. The definition of "physician" is re-enacted to clarify that a medical practitioner, for the purposes of this Act, must be qualified to practise medicine in the place where medical services are rendered by him.

SECTION 2.—Subsection 1. The amendment provides that the practitioner review committee for each discipline is a committee of the governing body of the discipline. This is parallel to the provision in respect of the Medical Review Committee in subsection 1 of section 5 of the Act.

Subsection 2. The amendment is complementary to subsection 1 of this section of the Bill. Subsection 6 of section 5a of the Act is parallel to subsection 4 of section 5 of the Act.

SECTION 3. The section provides for the submission of accounts to the Plan by practitioners engaged in the practice of disciplines designated by the regulations in a manner similar to that provided for physicians under section 20 of the Act.

BILL 95

1975

**An Act to amend
The Health Insurance Act, 1972**

HER MAJESTY, by and with the advice and consent of the Legislative Assembly of the Province of Ontario, enacts as follows:

1. Clause *k* of section 1 of *The Health Insurance Act, 1972*, <sup>s. 1 (k),
re-enacted</sup> being chapter 91, is repealed and the following substituted therefor:

(*k*) "physician" means a legally qualified medical practitioner lawfully entitled to practise medicine in the place where medical services are rendered by him.

- 2.—(1) Section 5*a* of the said Act, as enacted by the Statutes of Ontario, 1974, chapter 60, section 2, is amended by <sup>s. 5*a*,
amended</sup> adding thereto the following subsection:

(1*a*) Every practitioner review committee is a committee <sup>Committee
of board
or college</sup> of the board or college that nominates persons appointed as members of the committee.

- (2) Subsection 6 of the said section 5*a* is amended by striking <sup>s. 5*a* (6),
amended</sup> out "or the Appeal Board" in the fifth and sixth lines and inserting in lieu thereof "the Appeal Board or the board or college of which it is a committee".

3. The said Act is amended by adding thereto the following <sup>s. 20*a*,
enacted</sup> section:

20*a*.—(1) A practitioner engaged in the practice of a <sup>Billing by
practitioner</sup> discipline designated by the regulations may submit his accounts for the performance of insured services directly to the Plan for payment thereof directly to him by notifying the General Manager of his intention to do so in the manner and subject to the requirements prescribed by the regulations.

Methods of
billing
prohibited

(2) Where a practitioner submits his accounts directly to the Plan under this section, he shall thereafter submit all his accounts for the performance of insured services directly to the Plan in accordance with and subject to the requirements of this Act and the regulations.

Require-
ments where
Plan billed

(3) Where a practitioner submits his accounts directly to the Plan under this section,

- (a) payment thereof shall be made directly to him;
- (b) he shall not submit any account for any amount to the patient in respect of insured services; and
- (c) the payment by the Plan for the insured services performed constitutes payment in full of the account therefor.

Notification
about leaving
Plan

(4) A practitioner may at any time notify the General Manager in writing that he intends to cease submitting his accounts directly to the Plan and subsection 3 ceases to apply to him on and after the first day of the third month next following the month in which the General Manager receives such notification.

Plan not
to pay
directly

(5) The General Manager shall not make any payment in respect of the performance of insured services directly to any practitioner engaged in the practice of a discipline designated by the regulations who does not submit his accounts therefor directly to the Plan under this section.

Transitional
provision

(6) Every practitioner engaged in the practice of a discipline designated by the regulations who was submitting his accounts directly to the Plan immediately before the discipline is designated by the regulations for the purpose of this section shall be considered to be one who is submitting his accounts directly to the Plan under this Act.

s. 22 (2),
amended

4.—(1) Subsection 2 of section 22 of the said Act, as re-enacted by the Statutes of Ontario, 1974, chapter 60, section 5, is amended,

- (a) by inserting after "reimbursement" in the seventeenth line "from the physician"; and
- (b) by inserting after "28" in the eighteenth line "and subsections 3 to 9 of section 29".

SECTION 4.—Subsection 1. Subsection 2 of section 22 of the Act provides that the Medical Review Committee may recommend to the General Manager of the Plan that he require and recover reimbursement of any overpayment by the Plan. The amendment provides that the recommendation be for reimbursement from the physician who rendered the service referred to the Committee. The amendment to refer to section 29 of the Act is complementary to the amendment to section 29 contained in this Bill.

Subsection 2. Subsection 3 of section 22 of the Act is a parallel provision in respect of practitioner review committees and practitioners.

SECTION 5. The amendment provides for notice to a physician or practitioner where the General Manager carries out a recommendation of the Medical Review Committee or a practitioner review committee pursuant to subsection 2 or 3 of section 22 of the Act.

SECTION 6. Section 26 of the Act, which states who are parties to a hearing before the Health Services Appeal Board, is re-enacted to state who are parties to a hearing where the General Manager acts under clause *d* of subsection 1 of section 24 of the Act.

SECTION 7.—Subsection 1. The subsection is amended to include the case where the General Manager carries out a recommendation of the Medical Review Committee or a practitioner review committee to require and recover reimbursement of any overpayment by the Plan. This is complementary to the amendment of subsection 1 of section 24 of the Act by this Bill.

- (2) Subsection 3 of the said section 22, as enacted by the ^{s. 22 (3),} Statutes of Ontario, 1974, chapter 60, section 5, is amended,

- (a) by inserting after "reimbursement" in the twenty-first line "from the practitioner"; and
- (b) by inserting after "28" in the twenty-third line "and subsections 3 to 9 of section 29".

5. Subsection 1 of section 24 of the said Act, as amended by the ^{s. 24 (1),} Statutes of Ontario, 1974, chapter 60, section 6, is further amended,

- (a) by adding thereto the following clause:

- (d) carries out a recommendation of the Medical Review Committee or a practitioner review committee that he require and recover reimbursement of any overpayment by the Plan,

and,

- (b) by striking out "applicant or claimant" in the eighth and ninth lines and inserting in lieu thereof "applicant, claimant, physician or practitioner, as the case may be".

6. Section 26 of the said Act is repealed and the following substituted therefor: ^{s. 26,} re-enacted

26. The General Manager and,

Parties

- (a) in the case of a refusal under clause *a* or *b* of subsection 1 of section 24, the applicant;
- (b) in the case of a refusal or reduction under clause *c* of subsection 1 of section 24, the insured person and his physician or practitioner; or
- (c) in the case of the carrying out of a recommendation under clause *d* of subsection 1 of section 24, the insured person and his physician or practitioner and the Medical Review Committee or practitioner review committee, as the case may be,

and such other persons as the Appeal Board may specify, are parties to proceedings before the Appeal Board.

- 7.—(1) Subsection 1 of section 29 of the said Act, as amended by ^{s. 29 (1),} the Statutes of Ontario, 1974, chapter 60, section 7, is repealed and the following substituted therefor: re-enacted

Furnishing
reasons to
professional
governing
body

(1) Where a decision of the General Manager to refuse or reduce a payment or to require and recover reimbursement of any overpayment of any amount paid by the Plan on any of the grounds referred to in clauses *a* to *d* of subsection 2 or 3 of section 22 has become final, the General Manager shall furnish the Minister and the governing body of the profession of which the physician or practitioner rendering the services is a member with a copy of the decision and the reasons therefor, and in all other cases the General Manager may furnish such governing body with a copy of the decision and the reasons therefor.

s. 29 (3),
re-enacted

(2) Subsection 3 of the said section 29, as enacted by the Statutes of Ontario, 1974, chapter 60, section 7, is repealed and the following substituted therefor:

Notice

(3) Where a decision of the General Manager to carry out a recommendation referred to in clause *d* of subsection 1 of section 24 has become final in respect of a physician or practitioner who is not submitting his accounts directly to the Plan, the General Manager may serve notice on the physician or practitioner of the amount of the overpayment to be recovered by the General Manager from the physician or practitioner.

Contents
of notice

(4) A notice under subsection 3 shall set out or be accompanied by a written statement that identifies each of the insured services and the amount paid by the Plan for each of the services, and the notice shall inform the physician or practitioner that he is entitled to a hearing by the Appeal Board in respect of the services for the purpose of ensuring that the amount to be recovered from the physician or practitioner in respect of each of the services does not exceed the amount received by the physician or practitioner for the service if the physician or practitioner mails or delivers to the General Manager and to the Appeal Board, within fifteen days after the notice is served on him, notice in writing requiring a hearing and he may so require such a hearing.

Duty of
Board

(5) On a hearing under this section, the Appeal Board shall determine the amount received by the physician or practitioner for each service identified in the statement mentioned in subsection 4, and the amount of the reimbursement to the Plan to be recovered from the physician or practitioner in respect of each of the services shall not exceed the amount that the Appeal Board determines was received by the physician or practitioner for the service.

Subsection 2. Subsection 3 of section 29 of the Act applies to the recovery of money paid by the Plan for services by physicians or practitioners who do not submit their accounts directly to the Plan where the claim is reduced by the General Manager and provides for the recovery by court action. The amendment provides that a physician or practitioner is given the opportunity of a second hearing to ensure that the amount recovered does not exceed the amount actually received by the physician or practitioner for each such service and then for the filing and enforcement of the decision in the same manner as a judge of the Supreme Court.

SECTION 8. Section 30 of the Act relates to the giving of notice under the Act. Under the amendment, service of notice by registered mail will be considered to be made on the seventh, rather than the third, day after the day of mailing.

SECTION 9.—Subsection 1. New clause *ha* provides for the designation of practitioner disciplines by the regulations and is complementary to new section 20*a* of the Act contained in this Bill.

New clause *ka* provides for the making of regulations prescribing services that shall be insured services or not be insured services depending upon the age groups of the persons receiving the services.

(6) The General Manager, the physician or practitioner ^{Parties} and such other persons as the Appeal Board may specify are parties to the proceedings before the Appeal Board under this section.

(7) Subsection 2 of section 25 and sections 27 and 28 ^{Application of ss. 25 (2), 27, 28} apply to proceedings before the Appeal Board under this section.

(8) Where notice is served pursuant to subsection 3 and no hearing is required or no appeal is taken or the decision referred to in subsection 3 is confirmed or varied upon a hearing or an appeal, the General Manager may file a copy of the decision or of the decision as confirmed or varied, including the amount to be recovered from the physician or practitioner by the General Manager for reimbursement to the Plan and excluding the reasons for the decision or for the decision as confirmed or varied, in the office of the Registrar of the Supreme Court and the decision shall be entered and is enforceable in the same way as a judgment of the Supreme Court. ^{Decision may be filed and enforced}

(9) Where the Appeal Board or the Supreme Court extends the time for a hearing or an appeal and a decision has been filed in the office of the Registrar of the Supreme Court, the Appeal Board or the Supreme Court, as the case may be, may stay the enforcement of the decision pending the hearing or appeal. ^{Stay of enforcement of decision}

8. Section 30 of the said Act is amended by striking out "third" ^{s. 30, amended} in the sixth line and inserting in lieu thereof "seventh".

9.—(1) Subsection 1 of section 51 of the said Act, as amended ^{s. 51 (1), amended} by the Statutes of Ontario, 1974, chapter 60, section 12, is further amended by adding thereto the following clauses:

(ha) designating disciplines for the purpose of section 20a;

(ka) prescribing services that, notwithstanding any provision of this Act, shall be deemed,

(i) not to be insured services in respect of prescribed age groups of insured persons, or

(ii) to be insured services only in respect of prescribed age groups of insured persons,

but no service or age group shall be prescribed under this clause that disqualifies the Plan as a medical care insurance plan under the *Medical Care Act* (Canada). ^{R.S.C. 1970, c. M-8}

s. 51 (1),
amended

(2) Subsection 1 of the said section 51 is further amended by adding thereto the following clauses:

(na) providing for the times when and manner in which practitioners may submit accounts directly to the Plan under section 20a;

(oa) exempting any class of accounts from the application of section 20a or any provision thereof.

s. 51,
amended

(3) The said section 51, as amended by the Statutes of Ontario, 1974, chapter 60, section 12 and chapter 86, section 4, is further amended by adding thereto the following subsection:

When
regulation
may be
effective

(3) A regulation is, if it so provides, effective with reference to a period before it is filed.

Commence-
ment

10. This Act comes into force on the day it receives Royal Assent.

Short title

11. This Act may be cited as *The Health Insurance Amendment Act, 1975*.

Subsection 2. Clauses *na* and *oa* are complementary to subsection 1 of section 20*a* of the Act set out in section 3 of the Bill and are similar to clauses *n* and *o* which apply to physicians.

Subsection 3. Self-explanatory.



An Act to amend
The Health Insurance Act, 1972

1st Reading

May 29th, 1975

2nd Reading

July 3rd, 1975

3rd Reading

THE HON. F. S. MILLER
Minister of Health

*(Reprinted as amended by the
Committee of the Whole House)*

BILL 95

5TH SESSION, 29TH LEGISLATURE, ONTARIO
24 ELIZABETH II, 1975

An Act to amend The Health Insurance Act, 1972

THE HON. F. S. MILLER
Minister of Health

An Act to amend The Health Insurance Act, 1972

HER MAJESTY, by and with the advice and consent of the Legislative Assembly of the Province of Ontario, enacts as follows:

1. Clause *k* of section 1 of *The Health Insurance Act, 1972*, ^{s. 1 (k), re-enacted} being chapter 91, is repealed and the following substituted therefor:

(*k*) "physician" means a legally qualified medical practitioner lawfully entitled to practise medicine in the place where medical services are rendered by him.

- 2.—(1) Section 5*a* of the said Act, as enacted by the Statutes of ^{s. 5*a*, amended} Ontario, 1974, chapter 60, section 2, is amended by adding thereto the following subsection:

(1*a*) Every practitioner review committee is a committee ^{Committee of board or college} of the board or college that nominates persons appointed as members of the committee.

- (2) Subsection 6 of the said section 5*a* is amended by striking ^{s. 5*a* (6), amended} out "or the Appeal Board" in the fifth and sixth lines and inserting in lieu thereof "the Appeal Board or the board or college of which it is a committee".

3. The said Act is amended by adding thereto the following ^{s. 20*a*, enacted} section:

20*a*.—(1) A practitioner engaged in the practice of a ^{Billing by practitioner} discipline designated by the regulations may submit his accounts for the performance of insured services directly to the Plan for payment thereof directly to him by notifying the General Manager of his intention to do so in the manner and subject to the requirements prescribed by the regulations.

Methods of
billing
prohibited

(2) Where a practitioner submits his accounts directly to the Plan under this section, he shall thereafter submit all his accounts for the performance of insured services directly to the Plan in accordance with and subject to the requirements of this Act and the regulations.

Require-
ments where
Plan billed

(3) Where a practitioner submits his accounts directly to the Plan under this section,

- (a) payment thereof shall be made directly to him;
- (b) he shall not submit any account for any amount to the patient in respect of insured services; and
- (c) the payment by the Plan for the insured services performed constitutes payment in full of the account therefor.

Notification
about leaving
Plan

(4) A practitioner may at any time notify the General Manager in writing that he intends to cease submitting his accounts directly to the Plan and subsection 3 ceases to apply to him on and after the first day of the third month next following the month in which the General Manager receives such notification.

Plan not
to pay
directly

(5) The General Manager shall not make any payment in respect of the performance of insured services directly to any practitioner engaged in the practice of a discipline designated by the regulations who does not submit his accounts therefor directly to the Plan under this section.

Transitional
provision

(6) Every practitioner engaged in the practice of a discipline designated by the regulations who was submitting his accounts directly to the Plan immediately before the discipline is designated by the regulations for the purpose of this section shall be considered to be one who is submitting his accounts directly to the Plan under this Act.

s. 22 (2),
amended

4.—(1) Subsection 2 of section 22 of the said Act, as re-enacted by the Statutes of Ontario, 1974, chapter 60, section 5, is amended,

- (a) by inserting after "reimbursement" in the seventeenth line "from the physician"; and
- (b) by inserting after "28" in the eighteenth line "and subsections 3 to 9 of section 29".

- (2) Subsection 3 of the said section 22, as enacted by the Statutes of Ontario, 1974, chapter 60, section 5, is amended, ^{s. 22 (3), amended}

(a) by inserting after "reimbursement" in the twenty-first line "from the practitioner"; and

(b) by inserting after "28" in the twenty-third line "and subsections 3 to 9 of section 29".

5. Subsection 1 of section 24 of the said Act, as amended by the Statutes of Ontario, 1974, chapter 60, section 6, is further amended, ^{s. 24 (1), amended}

(a) by adding thereto the following clause:

(d) carries out a recommendation of the Medical Review Committee or a practitioner review committee that he require and recover reimbursement of any overpayment by the Plan,

and,

(b) by striking out "applicant or claimant" in the eighth and ninth lines and inserting in lieu thereof "applicant, claimant, physician or practitioner, as the case may be".

6. Section 26 of the said Act is repealed and the following substituted therefor: ^{s. 26, re-enacted}

26. The General Manager and,

Parties

(a) in the case of a refusal under clause *a* or *b* of subsection 1 of section 24, the applicant;

(b) in the case of a refusal or reduction under clause *c* of subsection 1 of section 24, the insured person and his physician or practitioner; or

(c) in the case of the carrying out of a recommendation under clause *d* of subsection 1 of section 24, the insured person and his physician or practitioner and the Medical Review Committee or practitioner review committee, as the case may be,

and such other persons as the Appeal Board may specify, are parties to proceedings before the Appeal Board.

- 7.—(1) Subsection 1 of section 29 of the said Act, as amended by the Statutes of Ontario, 1974, chapter 60, section 7, is repealed and the following substituted therefor: ^{s. 29 (1), re-enacted}

Furnishing
reasons to
professional
governing
body

(1) Where a decision of the General Manager to refuse or reduce a payment or to require and recover reimbursement of any overpayment of any amount paid by the Plan on any of the grounds referred to in clauses *a* to *d* of subsection 2 or 3 of section 22 has become final, the General Manager shall furnish the Minister and the governing body of the profession of which the physician or practitioner rendering the services is a member with a copy of the decision and the reasons therefor, and in all other cases the General Manager may furnish such governing body with a copy of the decision and the reasons therefor.

s. 29 (3),
re-enacted

(2) Subsection 3 of the said section 29, as enacted by the Statutes of Ontario, 1974, chapter 60, section 7, is repealed and the following substituted therefor:

Notice

(3) Where a decision of the General Manager to carry out a recommendation referred to in clause *d* of subsection 1 of section 24 has become final in respect of a physician or practitioner who is not submitting his accounts directly to the Plan, the General Manager may serve notice on the physician or practitioner of the amount of the overpayment to be recovered by the General Manager from the physician or practitioner.

Contents
of notice

(4) A notice under subsection 3 shall set out or be accompanied by a written statement that identifies each of the insured services and the amount paid by the Plan for each of the services, and the notice shall inform the physician or practitioner that he is entitled to a hearing by the Appeal Board in respect of the services for the purpose of ensuring that the amount to be recovered from the physician or practitioner in respect of each of the services does not exceed the amount received by the physician or practitioner for the service if the physician or practitioner mails or delivers to the General Manager and to the Appeal Board, within fifteen days after the notice is served on him, notice in writing requiring a hearing and he may so require such a hearing.

Duty of
Board

(5) On a hearing under this section, the Appeal Board shall determine the amount received by the physician or practitioner for each service identified in the statement mentioned in subsection 4, and the amount of the reimbursement to the Plan to be recovered from the physician or practitioner in respect of each of the services shall not exceed the amount that the Appeal Board determines was received by the physician or practitioner for the service.

(6) The General Manager, the physician or practitioner ^{Parties} and such other persons as the Appeal Board may specify are parties to the proceedings before the Appeal Board under this section.

(7) Subsection 2 of section 25 and sections 27 and 28 ^{Application of ss. 25 (2), 27, 28} apply to proceedings before the Appeal Board under this section.

(8) Where notice is served pursuant to subsection 3 and no hearing is required or no appeal is taken or the decision referred to in subsection 3 is confirmed or varied upon a hearing or an appeal, the General Manager may file a copy of the decision or of the decision as confirmed or varied, including the amount to be recovered from the physician or practitioner by the General Manager for reimbursement to the Plan and excluding the reasons for the decision or for the decision as confirmed or varied, in the office of the Registrar of the Supreme Court and the decision shall be entered and is enforceable in the same way as a judgment of the Supreme Court. ^{Decision may be filed and enforced}

(9) Where the Appeal Board or the Supreme Court extends the time for a hearing or an appeal and a decision has been filed in the office of the Registrar of the Supreme Court, the Appeal Board or the Supreme Court, as the case may be, may stay the enforcement of the decision pending the hearing or appeal. ^{Stay of enforcement of decision}

8. Section 30 of the said Act is amended by striking out "third" ^{s. 30, amended} in the sixth line and inserting in lieu thereof "seventh".

9.—(1) Subsection 1 of section 51 of the said Act, as amended ^{s. 51 (1), amended} by the Statutes of Ontario, 1974, chapter 60, section 12, is further amended by adding thereto the following clauses:

(ha) designating disciplines for the purpose of section 20a;

.

(ka) prescribing services that, notwithstanding any provision of this Act, shall be deemed,

(i) not to be insured services in respect of prescribed age groups of insured persons, or

(ii) to be insured services only in respect of prescribed age groups of insured persons,

but no service or age group shall be prescribed under this clause that disqualifies the Plan as a medical care insurance plan under the *Medical Care Act* (Canada). ^{R.S.C. 1970, c. M-8}

s. 51 (1),
amended

(2) Subsection 1 of the said section 51 is further amended by adding thereto the following clauses:

(na) providing for the times when and manner in which practitioners may submit accounts directly to the Plan under section 20a;

(oa) exempting any class of accounts from the application of section 20a or any provision thereof.

s. 51,
amended

(3) The said section 51, as amended by the Statutes of Ontario, 1974, chapter 60, section 12 and chapter 86, section 4, is further amended by adding thereto the following subsection:

When
regulation
may be
effective

(3) A regulation is, if it so provides, effective with reference to a period before it is filed.

Commence-
ment

10. This Act comes into force on the day it receives Royal Assent.

Short title

11. This Act may be cited as *The Health Insurance Amendment Act, 1975*.

An Act to amend
The Health Insurance Act, 1972

1st Reading

May 29th, 1975

2nd Reading

July 3rd, 1975

3rd Reading

July 3rd, 1975

THE HON. F. S. MULLER
Minister of Health

5TH SESSION, 29TH LEGISLATURE, ONTARIO
24 ELIZABETH II, 1975

**An Act to amend
The Ministry of Health Act, 1972**

THE HON. F. S. MILLER
Minister of Health

TORONTO

PRINTED BY J. C. THATCHER, QUEEN'S PRINTER FOR ONTARIO

EXPLANATORY NOTES

SECTION 1. The amendment authorizes the Minister to delegate the power to make agreements to the Deputy Minister or to officers of the Ministry. The reference in new subsection 4 is to section 5 of *The Executive Council Act* which states that "No . . . contract . . . is binding on Her Majesty or shall be deemed to be the act of (the) Minister unless it is signed by him . . .".

SECTION 2. Section 10 of the Act provides for actions that may be taken by the Minister where moneys are appropriated therefor by the Legislature.

SECTION 3. Section 12 of the Act provides for the making of regulations for the purposes set out in the clauses.

An Act to amend The Ministry of Health Act, 1972

HER MAJESTY, by and with the advice and consent of the Legislative Assembly of the Province of Ontario, enacts as follows:

1. Section 3 of *The Ministry of Health Act, 1972*, being chapter 92, s. 3,
amended
is amended by adding thereto the following subsections:

(3) Where, under this or any other Act, power to make an agreement is granted to or vested in the Minister, he may, in writing, delegate that power to the Deputy Minister or to any officer or officers of the Ministry subject to such limitations, conditions and requirements as the Minister may set out in the delegation. Delegation
of authority

(4) Notwithstanding *The Executive Council Act*, an agreement made by a person empowered to do so under subsection 3 has the same effect as if made and signed by the Minister. Effect of
R.S.O. 1970,
c. 153

2. Section 10 of the said Act is amended by adding thereto the following clauses: s. 10,
amended

(f) establish, maintain and operate facilities for the diagnosis, surveillance and treatment of tuberculosis and for the diagnosis and surveillance of miners' chest diseases and other respiratory diseases;

(g) provide payment to physicians and other persons for the administration of treatment to outpatients suffering from tuberculosis.

3. Section 12 of the said Act is amended by adding thereto the following clause: s. 12,
amended

(h) governing the establishment, maintenance, operation and use of and the treatment provided in facilities for the diagnosis, surveillance and treat-

ment of tuberculosis, and governing the establishment, maintenance, operation and use of facilities for the diagnosis and surveillance of miners' chest diseases.

Commence-
ment

4. This Act comes into force on the day it receives Royal Assent.

Short title

5. This Act may be cited as *The Ministry of Health Amendment Act, 1975*.

An Act to amend
The Ministry of Health Act, 1972

1st Reading

May 29th, 1975

2nd Reading

3rd Reading

THE HON. F. S. MILLER
Minister of Health

(Government Bill)

5TH SESSION, 29TH LEGISLATURE, ONTARIO
24 ELIZABETH II, 1975

**An Act to amend
The Ministry of Health Act, 1972**

THE HON. F. S. MILLER
Minister of Health

(Reprinted as amended by the Committee of the Whole House)

TORONTO

PRINTED BY J. C. THATCHER, QUEEN'S PRINTER FOR ONTARIO

EXPLANATORY NOTES

SECTION 1. The amendment authorizes the Minister to delegate the power to make agreements to the Deputy Minister or to officers of the Ministry. The reference in new subsection 4 is to section 5 of *The Executive Council Act* which states that "No . . . contract . . . is binding on Her Majesty or shall be deemed to be the act of (the) Minister unless it is signed by him . . .".

SECTION 2. Section 10 of the Act provides for actions that may be taken by the Minister where moneys are appropriated therefor by the Legislature.

SECTION 3. Section 12 of the Act provides for the making of regulations for the purposes set out in the clauses.

An Act to amend The Ministry of Health Act, 1972

HER MAJESTY, by and with the advice and consent of the Legislative Assembly of the Province of Ontario, enacts as follows:

1. Section 3 of *The Ministry of Health Act, 1972*, being chapter 92, is amended by adding thereto the following subsections: s. 3,
amended

(3) Where, under this or any other Act, power to make an agreement is granted to or vested in the Minister, he may, in writing, delegate that power to the Deputy Minister or to any officer or officers of the Ministry subject to such limitations, conditions and requirements as the Minister may set out in the delegation. Delegation
of authority

(4) Notwithstanding *The Executive Council Act*, an agreement made by a person empowered to do so under subsection 3 has the same effect as if made and signed by the Minister. Effect of
R.S.O. 1970,
c. 153

2. Section 10 of the said Act is amended by adding thereto the following clauses: s. 10,
amended

(f) establish, maintain and operate facilities for the diagnosis, surveillance and treatment of tuberculosis and for the diagnosis and surveillance of other respiratory diseases;

(g) provide payment to physicians and other persons for the administration of treatment to outpatients suffering from tuberculosis.

3. Section 12 of the said Act is amended by adding thereto the following clause: s. 12,
amended

(h) governing the establishment, maintenance, operation and use of and the treatment provided in facilities for the diagnosis, surveillance and treat-

ment of tuberculosis, and governing the establishment, maintenance, operation and use of facilities for the diagnosis and surveillance of other respiratory diseases.

Commence-
ment

4. This Act comes into force on the day it receives Royal Assent.

Short title

5. This Act may be cited as *The Ministry of Health Amendment Act, 1975*.

An Act to amend
The Ministry of Health Act, 1972

1st Reading

May 29th, 1975

2nd Reading

July 3rd, 1975

3rd Reading

THE HON. F. S. MILLER
Minister of Health

*(Reprinted as amended by the
Committee of the Whole House)*

BILL 96

5TH SESSION, 29TH LEGISLATURE, ONTARIO
24 ELIZABETH II, 1975

An Act to amend The Ministry of Health Act, 1972

THE HON. F. S. MILLER
Minister of Health

BILL 96

1975

An Act to amend The Ministry of Health Act, 1972

HER MAJESTY, by and with the advice and consent of the Legislative Assembly of the Province of Ontario, enacts as follows:

1. Section 3 of *The Ministry of Health Act, 1972*, being chapter 92, is amended by adding thereto the following subsections: s. 3,
amended

(3) Where, under this or any other Act, power to make an agreement is granted to or vested in the Minister, he may, in writing, delegate that power to the Deputy Minister or to any officer or officers of the Ministry subject to such limitations, conditions and requirements as the Minister may set out in the delegation. Delegation
of authority

(4) Notwithstanding *The Executive Council Act*, an agreement made by a person empowered to do so under subsection 3 has the same effect as if made and signed by the Minister. Effect of
R.S.O. 1970,
c. 153

2. Section 10 of the said Act is amended by adding thereto the following clauses: s. 10,
amended

(f) establish, maintain and operate facilities for the diagnosis, surveillance and treatment of tuberculosis and for the diagnosis and surveillance of other respiratory diseases;

(g) provide payment to physicians and other persons for the administration of treatment to outpatients suffering from tuberculosis.

3. Section 12 of the said Act is amended by adding thereto the following clause: s. 12,
amended

(h) governing the establishment, maintenance, operation and use of and the treatment provided in facilities for the diagnosis, surveillance and treat-

ment of tuberculosis, and governing the establishment, maintenance, operation and use of facilities for the diagnosis and surveillance of other respiratory diseases.

Commence-
ment

4. This Act comes into force on the day it receives Royal Assent.

Short title

5. This Act may be cited as *The Ministry of Health Amendment Act, 1975*.

An Act to amend
The Ministry of Health Act, 1972

1st Reading

May 29th, 1975

2nd Reading

July 3rd, 1975

3rd Reading

July 3rd, 1975

THE HON. F. S. MILLER
Minister of Health

5TH SESSION, 29TH LEGISLATURE, ONTARIO
24 ELIZABETH II, 1975

An Act to provide for Freedom of Information

MR. MACDONALD

TORONTO

PRINTED BY J. C. THATCHER, QUEEN'S PRINTER FOR ONTARIO

EXPLANATORY NOTE

The purpose of the Bill is to provide the public access to Government documents without cost.

BILL 97

1975

An Act to provide for Freedom of Information

WHEREAS it is in the public interest of the Province Preamble
of Ontario, subject to the limitations set out herein,
that all persons have access to all official documents;

Therefore, Her Majesty, by and with the advice and consent
of the Legislative Assembly of the Province of Ontario, enacts
as follows:

1. In this Act,

Interpre-
tation

- (a) "document" means any document including any opinion, record, proceeding, map, drawing or picture, regardless of form or characteristic;
- (b) "official document" means a document kept by a Ministry of the Government of Ontario or a board, agency or Commission of the Government of Ontario whether received or prepared by such Ministry, board, agency or Commission and includes any document which is prepared as a result of the spending of public moneys.

2. Subject to section 3, a Ministry or a board, agency or Access to
official
document
Commission of the Government of Ontario shall upon request
and without cost make available as soon as possible any
identifiable official document to any person who wants to
examine or copy it.

3. The following documents are exempt from the provi- Exceptions
sions of section 2:

- 1. Legal opinions or advice provided for the use of the Government of Ontario.
- 2. Documents, the release of which would be detrimental to the security of Ontario or Canada.

3. Documents dealing with international relations, the release of which might be detrimental to the future conduct of Ontario's or Canada's foreign relations.
4. Documents, the release of which might be detrimental to the future conduct of federal-provincial relations or the relations of the provinces with one another.
5. Documents, the release of which would result in direct personal financial gain or loss by a person or a group of persons.
6. Documents reflecting on the personal competence or character of an individual.
7. Documents, the release of which would be personally embarrassing to Her Majesty or the Royal Family or official representatives of Her Majesty.
8. Documents relating to negotiations leading up to a contract until the contract has been executed or the negotiations have been concluded.
9. Documents relating to policy decisions under consideration but not yet finalized.
10. Documents that are excluded from disclosure by statute.
11. Executive Council documents.
12. Any proceedings before a court of justice or a judicial inquiry.
13. Any matter which may be exempted by the Regulations.

Release of
documents by
Lieutenant
Governor in
Council

4. Notwithstanding section 3, the Lieutenant Governor in Council may order the release of a document which is exempt where the release of the document is in the public interest.

Application
to
ombudsman

5. Where a person has requested an official document that is not exempt under section 3 and that document is not produced, the person may apply to the ombudsman for a review and public report on the validity of the reasons given for refusing access to the document.

6. The Lieutenant Governor in Council may make regula-^{Regulations}
tions exempting any document or class of document from
the application of this Act.

7. This Act comes into force on the day it receives Royal ^{Commence-}
Assent._{ment}

8. This Act may be cited as *The Freedom of Information* ^{Short title}
Act, 1975.

An Act to provide for
Freedom of Information

1st Reading

May 29th, 1975

2nd Reading

3rd Reading

MR. MACDONALD

(Private Member's Bill)

5TH SESSION, 29TH LEGISLATURE, ONTARIO
24 ELIZABETH II, 1975

The Securities Act, 1975

THE HON. S. B. HANDLEMAN
Minister of Consumer and Commercial Relations

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EXPLANATORY NOTE

The Bill is a revision of *The Securities Act*.

The purpose of the revision is,

- (a) to provide comprehensive regulation of the mutual fund industry by implementing the recommendations of The Report of the Canadian Committee on Mutual Funds and Investment Contracts (1969);
- (b) to establish a more coherent continuous disclosure system for the purpose of,
 - (i) providing equal access to material information of the affairs of an issuer, and, consequently,
 - (ii) permitting a more exhaustive definition of the circumstances in which securities may be traded without restriction,

in accordance with the principles underlying the recommendations of The Report of the Committee of the Ontario Securities Commission on the Problems of Disclosure Raised for Investors by Business Combinations and Private Placements;

- (c) to amend the existing take-over bid provisions in accordance with the recommendations of Chapters 13 and 16 of The Report on Mergers, Amalgamations and Certain Related Matters by the Select Committee on Company Law (November, 1973);
- (d) to expand the insider trading liability provision to include trading of securities of an issuer with knowledge of a material fact or change in respect of the issuer that has not been generally disclosed, to make the informing of another person or company of that material fact or change an offence and to implement the recommendation of Chapter 22 of The Report on Mergers, Amalgamations and Certain Related Matters by the Select Committee on Company Law;
- (e) to remove matters generally regarded as corporate law from securities legislation;
- (f) to amend some existing provisions of the securities legislation in an effort to effectively achieve their purpose; and
- (g) to reorganize the securities legislation into a more logical format that includes only fundamental principles and to provide the details of fundamental principles in the regulations under the securities legislation.

The Securities Act, 1975

HER MAJESTY, by and with advice and consent of the Legislative Assembly of the Province of Ontario, enacts as follows:

INTERPRETATION

1.—(1) In this Act,

Interpre-
tation

1. "adviser" means a person or company engaging in or holding himself or itself out as engaging in the business of advising others as to the investing in or the buying or selling of securities;
2. "associate", where used to indicate a relationship with any person or company means,
 - i. any company of which such person or company beneficially owns, directly or indirectly, voting securities carrying more than 10 per cent of the voting rights attached to all voting securities of the company for the time being outstanding,
 - ii. any partners of that person or company,
 - iii. any trust or estate in which such person or company has a substantial beneficial interest or as to which such person or company serves as trustee or in a similar capacity,
 - iv. any relative of such person, including his spouse, or of his spouse, who has the same home as such person;
3. "Commission" means the Ontario Securities Commission;
4. "company" means any corporation, incorporated association, incorporated syndicate or other incorporated organization;

5. "contract" includes a trust agreement, declaration of trust or other similar instrument;
6. "contractual plan" means any contract or other arrangement for the purchase of shares or units of a mutual fund by payments over a specified period or by a specified number of payments where the amount deducted from any one of the payments as sales charges is larger than the amount that would have been deducted from such payment for sales charges if deductions had been made from each payment at a constant rate for the duration of the plan;
7. "contractual plan service company" means a person or company that sponsors or administers a contractual plan other than a trust company registered under *The Loan and Trust Corporations Act*;
8. "dealer" means a person or company that trades in securities in the capacity of principal or agent;
9. "decision" means a direction, decision, order, ruling or other requirement made under a power or right conferred by this Act or the regulations;
10. "Director" means the Director or any Deputy Director of the Commission;
11. "director", where used in relation to a person, includes a person acting in a capacity similar to that of a director of a company;
12. "distribution", where used in relation to trading in securities, means,
 - i. a trade in securities of an issuer which have not been previously issued,
 - ii. a trade by or on behalf of an issuer in previously issued securities of that issuer which have been redeemed or purchased by or donated to that issuer, or
 - iii. a trade in previously issued securities of an issuer from the holdings of any person, company or combination of persons or companies holding a sufficient number of any securities of that issuer to affect materially the control of that issuer, but any holding of any

person, company or combination of persons and companies holding more than 20 per cent of the outstanding voting securities of an issuer shall, in the absence of evidence to the contrary, be deemed to affect materially the control of that issuer,

- iv. a trade in securities previously issued through an exemption in subsection 1 of section 73 that is not made in compliance with subsection 4, 5, 6 or 7 of section 73,

and “distribute”, “distributed” and “distributing” have a corresponding meaning;

- 13. “distribution company” means a person or company distributing securities under a distribution contract;
- 14. “distribution contract” means a contract between a mutual fund or its trustees or other legal representative and a person or company under which that person or company is granted the right to purchase the shares or units of the mutual fund for distribution or to distribute the shares or units of the mutual fund on behalf of the mutual fund;
- 15. “file” means deliver to the Commission;
- 16. “form of proxy” means a written or printed form that, upon completion and execution by or on behalf of a security holder, becomes a proxy;
- 17. “individual” means a natural person, but does not include a partnership, unincorporated association, unincorporated syndicate, unincorporated organization, trust, or a natural person in his capacity as trustee, executor, administrator or other legal personal representative;
- 18. “insider” or “insider of a reporting issuer” means,
 - i. every director or senior officer of a reporting issuer,
 - ii. every director or senior officer of a company that is itself an insider or subsidiary of a reporting issuer,
 - iii. any person or company that beneficially owns, directly or indirectly, voting securities of a reporting issuer or that exercises control or

direction over voting securities of a reporting issuer or a combination of both carrying more than 10 per cent of the voting rights attached to all voting securities of the reporting issuer for the time being outstanding other than voting securities held by such person or company as underwriter in the course of a distribution, and

iv. every associate of the foregoing;

19. "issuer" means a person or company that has outstanding, issues or proposes to issue, a security;
20. "management company" means a person or company that provides investment advice, under a management contract;
21. "management contract" means a contract under which a mutual fund is provided with investment advice, alone or together with administrative or management services, for valuable consideration;
22. "material", where used in relation to a fact or change, means a fact or change that would reasonably be expected to have a significant effect on the market price of a security of an issuer;
23. "Minister" means the Minister of Consumer and Commercial Relations or other member of the Executive Council to whom the administration of this Act may be assigned;
24. "misrepresentation" means,
 - i. an untrue statement of material fact, or
 - ii. an omission to state a material fact;
25. "mutual fund" includes an issuer of securities that entitle the holder to receive on demand, or within a specified period after demand, an amount computed by reference to the value of a proportionate interest in the whole or in a part of the net assets, including a separate fund or trust account, of the issuer of such securities;
26. "officer" means the chairman, any vice-chairman of the board of directors, the president, any vice-president, the secretary, the assistant secretary, the

treasurer, the assistant treasurer, and the general manager of a company, and any other person designated an officer of a company by by-law or similar authority, or any individual acting in a similar capacity on behalf of an issuer or registrant;

27. "person" means an individual, partnership, unincorporated association, unincorporated syndicate, unincorporated organization, trust, trustee, executor, administrator, or other legal representative;
28. "portfolio securities", where used in relation to a mutual fund, means securities traded within the last thirty days, held, or proposed to be purchased by the mutual fund;
29. "private company" means a company in whose constating document,
 - i. the right to transfer its shares is restricted,
 - ii. the number of its shareholders, exclusive of persons who are in its employment and exclusive of persons who, having been formerly in the employment of the company, were, while in that employment, and have continued after termination of that employment to be, shareholders of the company, is limited to not more than fifty, two or more persons who are the joint registered owners of one or more shares being counted as one shareholder, and
 - iii. any invitation to the public to subscribe for its securities is prohibited;
30. "promoter" means,
 - i. a person or company that, acting alone or in conjunction with one or more other persons, companies or a combination thereof, directly or indirectly, takes the initiative in founding, organizing or substantially reorganizing the business of an issuer, or
 - ii. a person or company that, in connection with the founding, organizing or substantial reorganizing of the business of an issuer, directly or indirectly, receives in consideration of services or property, or both services and

property, 10 per cent or more of any class of securities of the issuer or 10 per cent or more of the proceeds from the sale of any class of securities of a particular issue, but a person or company who receives such securities or proceeds either solely as underwriting commissions or solely in consideration of property shall not be deemed a promoter within the meaning of this definition if such person or company does not otherwise take part in founding, organizing, or substantially re-organizing the business;

31. "proxy" means a completed and executed form of proxy by means of which a security holder has appointed a person or company as his nominee to attend and act for him and on his behalf at a meeting of security holders;
32. "register" means register under this Act, and "registered" has a corresponding meaning;
33. "registrant" means a person or company registered or required to be registered under this Act;
34. "regulations" means the regulations made under this Act;
35. "reporting issuer" means an issuer,
 - i. that has issued voting securities on or after the 1st day of May, 1967 in respect of which a prospectus was filed and a receipt therefor obtained under a predecessor of this Act or in respect of which a securities exchange take-over bid circular was filed under a predecessor of this Act,
 - ii. that has filed a prospectus and obtained a receipt therefor under this Act or that has filed a securities exchange take-over bid circular under this Act,
 - iii. any of whose securities have been at any time since the coming into force of this Act listed and posted for trading on any stock exchange in Ontario recognized by the Commission, regardless of when such listing and posting for trading commenced, or

- iv. to which *The Business Corporations Act* applies <sup>R.S.O. 1970,
c. 53</sup> and which, for the purposes of that Act, is offering its securities to the public;

36. "salesman" means an individual who is employed by a dealer for the purpose of making trades in securities on behalf of such dealer;

37. "security" includes,

- i. any document, instrument or writing commonly known as a security,
- ii. any document constituting evidence of title to or interest in the capital, assets, property, profits, earnings or royalties of any person or company,
- iii. any document constituting evidence of an interest in an association of legatees or heirs,
- iv. any document constituting evidence of an option, subscription or other interest in or to a security,
- v. any bond, debenture, note or other evidence of indebtedness, share, stock, unit, unit certificate, participation certificate, certificate of share or interest, pre-organization certificate, subscription or any agreement under which the interest of the purchaser is valued for purposes of conversion or surrender by reference to the value of a proportionate interest in a specified portfolio of assets,
- vi. any agreement providing that money received will be repaid or treated as a subscription to shares, stock, units or interests at the option of the recipient or of any person or company,
- vii. any certificate of share or interest in a trust, estate or association,
- viii. any profit-sharing agreement or certificate,
- ix. any certificate or interest in an oil, natural gas or mining lease, claim or royalty voting trust certificate,
- x. any oil or natural gas royalties or leases or fractional or other interest therein,

R.S.O. 1970,
c. 226

- xi. any collateral trust certificate,
- xii. any income or annuity contract not issued by an insurance company or an issuer within the meaning of *The Investment Contracts Act*,
- xiii. any investment contract, other than an investment contract within the meaning of *The Investment Contracts Act*, and
- xiv. any document constituting evidence of an interest in a scholarship or educational plan or trust,

whether any of the foregoing relate to an issuer or proposed issuer;

38. "senior officer" means,

- i. the chairman or a vice-chairman of the board of directors, the president, a vice-president, the secretary, the treasurer or the general manager of a company or any other individual who performs functions for an issuer similar to those normally performed by an individual occupying any such office, and
- ii. each of the five highest paid employees of an issuer, including any individual referred to in subparagraph i;

39. "trade" or "trading" includes,

- i. any sale or disposition of a security for valuable consideration, whether the terms of payment be on margin, instalment or otherwise, but does not include a purchase of a security,
- ii. any participation as a floor trader in any transaction in a security upon the floor of any stock exchange,
- iii. any receipt by a registrant of an order to buy or sell a security,
- iv. any transfer, pledge or encumbrancing of securities of an issuer from the holdings of any person or company or combination of

persons or companies described in subparagraph iii of paragraph 12 for the purpose of giving collateral for a *bona fide* debt, and

- v. any act, advertisement, solicitation, conduct or negotiation directly or indirectly in furtherance of any of the foregoing;

40. "underwriter" means a person or company who, as principal, agrees to purchase securities with a view to distribution or who, as agent, offers for sale or sells securities in connection with a distribution and includes a person or company who has a direct or indirect participation in any such distribution, but does not include,

- i. a person or company whose interest in the transaction is limited to receiving the usual and customary distributor's or seller's commission payable by an underwriter or issuer,
- ii. a mutual fund that, under the laws of the jurisdiction to which it is subject, accepts its shares or units for surrender and resells them,
- iii. a company that, under the laws of the jurisdiction to which it is subject, purchases its shares and resells them, or
- iv. a bank to which the *Bank Act* (Canada) applies with respect to the securities described in paragraph 1 of subsection 2 of section 35;

R.S.C. 1970,
c. B-1

41. "voting security" means any security other than a debt security of an issuer carrying a voting right either under all circumstances or under some circumstances which have occurred and are continuing.

(2) A company shall be deemed to be an affiliate of another company if one of them is the subsidiary of the other or if both are subsidiaries of the same company or if each of them is controlled by the same person or company.

Affiliated
companies

(3) A company shall be deemed to be controlled by another person or company or by two or more companies if,

Controlled
companies

- (a) voting securities of the first-mentioned company carrying more than 50 per cent of the votes for the election of directors are held, otherwise than by

way of security only, by or for the benefit of such other person or company or by or for the benefit of such other companies; and

- (b) the votes carried by such securities are entitled, if exercised, to elect a majority of the board of directors of the first-mentioned company.

**Subsidiary
companies**

(4) A company shall be deemed to be a subsidiary of another company if,

- (a) it is controlled by,

(i) that other, or

(ii) that other and one or more companies each of which is controlled by that other, or

(iii) two or more companies each of which is controlled by that other; or

- (b) it is a subsidiary of a company that is that other's subsidiary.

**Beneficial
ownership
of securities**

(5) A person shall be deemed to own beneficially securities beneficially owned by a company controlled by him or by an affiliate of such company.

Idem

(6) A company shall be deemed to own beneficially securities beneficially owned by its affiliates.

**Insider
of mutual
fund**

(7) Every management company and every distribution company of a mutual fund that is a reporting issuer and every insider of such management company and distribution company shall be deemed to be an insider of the mutual fund.

**Issuer as
insider of
reporting
issuer**

(8) Where an issuer becomes an insider of a reporting issuer, every director or senior officer of the issuer shall be deemed to have been an insider of the reporting issuer for the previous six months or for such shorter period that he was a director or senior officer of the issuer.

**Reporting
issuer as
insider of
other
reporting
issuer**

(9) Where a reporting issuer becomes an insider of any other reporting issuer, every director or senior officer of the second-mentioned reporting issuer shall be deemed to have been an insider of the first-mentioned reporting issuer for the previous six months or for such shorter period that he was a director or senior officer of the second-mentioned reporting issuer. R.S.O. 1970, c. 426, s. 1, *amended*.

PART I

THE COMMISSION

2.—(1) The Commission is continued and is responsible ^{Commission} for the administration of this Act.

(2) The Commission shall be composed of a Chairman and ^{Appointment} not more than seven other members, appointed by the Lieutenant Governor in Council, one of whom shall be designated as Vice-Chairman.

(3) Two members of the Commission constitute a quorum. ^{Quorum} R.S.O. 1970, c. 426, s. 2, *amended*.

3.—(1) The Chairman shall be the chief executive officer ^{Chairman and members} of the Commission and shall devote his full time to the work of the Commission, and the other members shall devote such time as may be necessary for the due performance of their duties as members of the Commission.

(2) The Chairman, Vice-Chairman or any member of the ^{Delegation of powers} Commission may exercise the powers and shall perform such duties vested in or imposed upon the Commission by this Act or the regulations as are assigned to him by the Commission.

(3) Where the person who exercises the powers and per- ^{Eligibility to sit on hearing} forms the duties vested in the Commission by sections 11 through 17 pursuant to an assignment under subsection 2, receives the report of an investigation ordered under section 11 and on the basis of such report issues an *ex parte* order or a direction that proceedings be instituted by the Commission under sections 26, 71, 122 or 123 such person shall not sit on the hearing required to be held by the Commission except with the written consent of the party directly affected by the proceedings.

(4) Every decision made pursuant to an assignment under ^{Review} subsection 2 is subject to review by the Commission under section 8 in the same manner as if it had been made by the Director, and the person who made this decision shall not sit on the hearing and review thereof by the Commission. R.S.O. 1970, c. 426, s. 3, *amended*.

PART II

FINANCIAL DISCLOSURE ADVISORY BOARD

Financial
Disclosure
Advisory
Board

4.—(1) The Financial Disclosure Advisory Board established under *The Securities Act*, being chapter 426 of the Revised Statutes of Ontario, 1970, is continued and shall be composed of not more than five members appointed by the Lieutenant Governor in Council, and the Lieutenant Governor in Council may designate one of the members to be chairman.

Meetings

(2) The Financial Disclosure Advisory Board shall meet at the call of the Commission.

Duties

(3) The Financial Disclosure Advisory Board shall, when requested by the Commission, consult with and advise the Commission concerning the financial disclosure requirements of this Act and the regulations.

Remuner-
ation

(4) The members of The Financial Disclosure Advisory Board shall serve without remuneration, but the Lieutenant Governor in Council may fix a *per diem* allowance to be payable to each member, and every member is entitled to his reasonable and necessary expenses, as certified by the chairman, for attending at meetings and transacting the business of the Board. R.S.O. 1970, c. 426, s. 146, *amended*.

PART III

APPOINTMENT OF EXPERTS

Appointment
of experts

5.—(1) The Commission may appoint one or more experts to assist the Commission in such manner as it may consider expedient.

Submissions
to experts

(2) The Commission may submit any agreement, prospectus, financial statement, report or other document to one or more experts appointed under subsection 1 for examination, and the Commission has the like power to summon and enforce the attendance of witnesses before the expert and to compel them to produce documents, records and things as is vested in the Commission, and subsections 3 and 4 of section 11 apply *mutatis mutandis*.

Payment
of experts

(3) An expert appointed under subsection 1 shall be paid such amounts for services and expenses as the Lieutenant Governor in Council may determine. *New*.

PART IV

THE DIRECTOR

6. The Director may exercise the powers and shall perform the duties vested in or imposed upon him by this Act, and he may exercise the powers and shall perform the duties vested in or imposed upon the Commission by this Act or the regulations that are assigned to him by the Commission except those referred to in section 8 and sections 11 to 17 and, subject to the direction of the Commission, he is the chief administrative officer of the Commission. R.S.O. 1970, c. 426, s. 4. Director

7. Where,

Refunds

- (a) an application for registration or renewal of registration is abandoned; or
- (b) a preliminary prospectus or prospectus is withdrawn,

the Director may, upon the application of the person or company who made the application or filed the preliminary prospectus or prospectus, recommend to the Treasurer of Ontario that a refund of the fee paid on the making of the application or the filing of the preliminary prospectus or prospectus or such part thereof as he deems fair and reasonable be made, and the Treasurer may make such refund from the Consolidated Revenue Fund. R.S.O. 1970, c. 426, s. 17.

PART V

ADMINISTRATIVE PROCEEDINGS, REVIEWS AND APPEALS

8.—(1) The Director shall forthwith notify the Commission of every decision refusing registration under section 25 or refusing to issue a receipt for a prospectus under section 62 and the Commission may within thirty days of the decision notify the Director and any person or company directly affected of its intention to convene a hearing to review the decision. *New.* Notification
of decision

(2) Any person or company directly affected by a decision of the Director may, by notice in writing sent by registered Review
of Director's
decisions

mail to the Commission within thirty days after the mailing of the notice of the decision, request and be entitled to a hearing and review thereof by the Commission.

Power on
review

(3) Upon a hearing and review, the Commission may by order confirm the decision under review or make such other decision as the Commission considers proper. R.S.O. 1970, c. 426, s. 28; 1971, c. 31, s. 5.

Stay

(4) Notwithstanding that a person or company requests a hearing and review under subsection 2 of this section or subsection 4 of section 3, the decision under review takes effect immediately, but the Commission may grant a stay until disposition of the hearing and review. 1973, c. 11, s. 1.

Appeal

9.—(1) Any person or company directly affected by a decision of the Commission, other than a decision under section 75, may appeal to the Supreme Court.

Stay

(2) Notwithstanding that an appeal is taken under this section, the decision appealed from takes effect immediately, but the Commission or the Divisional Court may grant a stay until disposition of the appeal.

Certification
of documents

(3) The Secretary shall certify to the Registrar of the Supreme Court,

- (a) the decision that has been reviewed by the Commission;
- (b) the decision of the Commission, together with any statement of reasons therefor;
- (c) the record of the proceedings before the Commission; and
- (d) all written submissions to the Commission or other material that is relevant to the appeal.

Minister
entitled to
appear

(4) The Minister is entitled to be heard by counsel or otherwise upon the argument of an appeal under this section.

Powers
of court
on appeal

(5) Where an appeal is taken under this section, the court may by its order direct the Commission to make such decision or to do such other act as the Commission is authorized and empowered to do under this Act or the

regulations and as the court considers proper, having regard to the material and submissions before it and to this Act and the regulations, and the Commission shall make such decision or do such act accordingly.

(6) Notwithstanding an order of the court, on an appeal, ^{Further decisions} the Commission may make any further decision upon new material or where there is a significant change in the circumstances, and every such decision is subject to this section. 1973, c. 11, s. 2, *amended*.

10.—(1) There shall be a Secretary to the Commission ^{Secretary} who may,

- (a) accept service of all notices or other documents on behalf of the Commission;
- (b) when authorized by the Commission, sign any decision made by the Commission as a result of a hearing;
- (c) certify under his hand any decision made by the Commission or any document, record or thing used in connection with any hearing by the Commission where certification is required for a purpose other than that stated in subsection 3 of section 9; and
- (d) exercise such other powers as are vested in him by this Act or the regulations and perform such other duties as are imposed upon him by this Act or the regulations or by the Commission.

(2) Where the Secretary is absent for any reason, the ^{Acting Secretary} Commission may designate another individual to act in the capacity of Secretary and the individual designated may exercise all the powers vested in the Secretary by this Act or the regulations.

(3) A certificate purporting to be signed by the Secretary ^{Certification by Secretary} is, without proof of the office or signature certifying, admissible in evidence, so far as is relevant, for all purposes in any action, proceeding or prosecution. *New*.

PART VI

INVESTIGATIONS

11.—(1) Where upon a statement made under oath it ^{Investigation order} appears probable to the Commission that any person or company has,

- (a) contravened any of the provisions of this Act or the regulations; or

R.S.C. 1970,
c. C-34

(b) committed an offence under the *Criminal Code* (Canada) in connection with a trade in securities,

the Commission may, by order, appoint any person to make such investigation as it deems expedient for the due administration of this Act, and in the order shall determine and prescribe the scope of the investigation.

Investigation
order

(2) The Commission may, by order, appoint any person to make such investigation as it deems expedient for the due administration of this Act or into any matter relating to trading in securities, and in such order shall determine and prescribe the scope of the investigation.

Scope of
investigation

(3) For the purposes of any investigation ordered under this section, the person appointed to make the investigation may investigate, inquire into and examine,

(a) the affairs of the person or company in respect of which the investigation is being made and any books, papers, documents, correspondence, communications, negotiations, transactions, investigations, loans, borrowings and payments to, by, on behalf of or in relation to or connected with such person or company and any property, assets or things owned, acquired or alienated in whole or in part by such person or company or by any person or company acting on behalf of or as agent for such person or company; and

(b) the assets at any time held, the liabilities, debts, undertakings and obligations at any time existing, the financial or other conditions at any time prevailing in or in relation to or in connection with any such person or company and the relationship that may at any time exist or have existed between such person or company and any other person or company by reason of investments, commissions promised, secured or paid, interests held or acquired, the loaning or borrowing of money, stock or other property, the transfer, negotiation or holding of stock, interlocking directorates, common control, undue influence or control or any other relationship.

Powers to
summon
witnesses and
require
production

(4) The person making an investigation under this section has the same power to summon and enforce the attendance of witnesses and compel them to give evidence on oath or otherwise, and to produce documents, records and things, as is vested in the Supreme Court for the trial of civil actions, and the failure or refusal of a person to attend, to answer

questions or to produce such documents, records and things as are in his custody or possession makes the person liable to be committed for contempt by a judge of the Supreme Court as if in breach of an order or judgment of the Supreme Court provided that no provision of *The Evidence Act* exempts any bank or any officer or employee thereof from the operation of this section. R.S.O. 1970,
c. 151

(5) A person giving evidence at an investigation under this section may be represented by counsel.

(6) Where an investigation is ordered under this section, the person appointed to make the investigation may seize and take possession of any documents, records, securities or other property of the person or company whose affairs are being investigated. Seizure
of property

(7) Where any documents, records, securities or other property are seized under subsection 6, such documents, records, securities or other property shall be made available for inspection and copying by the person or company from whom seized at a mutually convenient time and place if a request for an opportunity to inspect or copy is made by such person or company to the person appointed to make the investigation. Inspection
of seized
documents

(8) Where an investigation is ordered under this section, the Commission may appoint an accountant or other expert to examine documents, records, properties and matters of the person or company whose affairs are being investigated. Accountants
and experts
R.S.O. 1970, c. 426, s. 21 (1-8).

(9) Every person appointed under subsection 1, 2 or 8 shall provide the Commission with a full and complete report of the investigation including any transcript of evidence and material in his possession relating to the investigation. R.S.O. 1970, c. 426, s. 21 (9), *amended*. Report of
investigation

12. Where upon the report of an investigation made under section 11 it appears to the Commission that any person or company may have, Report to
Minister

(a) contravened any of the provisions of this Act or the regulations; or

(b) committed an offence under the *Criminal Code* (Canada) in connection with a transaction relating to securities, R.S.C. 1970,
c. C-34

the Commission shall send a full and complete report of the investigation, including the report made to it, any transcript

of evidence and any material in the possession of the Commission relating thereto, to the Minister. R.S.O. 1970, c. 426, s. 22.

Investigation
by order of
Minister

13. Notwithstanding section 11, the Minister may, by order, appoint any person to make such investigation as the Minister considers expedient for the due administration of this Act or into any matter relating to trading in securities, in which case the person so appointed, for the purposes of the investigation, has the same authority, powers, rights, and privileges as a person appointed under section 11. R.S.O. 1970, c. 426, s. 23.

Evidence not
to be disclosed

14. No person, without the consent of the Commission, shall disclose, except to his counsel, any information or evidence obtained or the name of any witness examined or sought to be examined under section 11 or 13.

Report to
Minister

15. Where an investigation has been made under section 11, the Commission may, and, where an investigation has been made under section 13, the person making the investigation shall report the result thereof, including the evidence, findings, comments and recommendations, to the Minister, and the Minister may cause the report to be published in whole or in part in such manner as he considers proper. R.S.O. 1970, c. 426, s. 25.

Order to
freeze
property

16.—(1) The Commission may,

- (a) where it is about to order an investigation in respect of a person or company under section 11 or during or after an investigation in respect of a person or company under section 11 or 13;
- (b) where it is about to make or has made an order under section 122 that trading in securities of an issuer shall cease;
- (c) where it is about to make or has made a decision suspending or cancelling the registration of any person or company or affecting the right of any person or company to trade in securities; or
- (d) where criminal proceedings or proceedings in respect of a contravention of this Act or the regulations are about to be or have been instituted against any person or company, that in the opinion of the Commission are connected with or arise out of any security or any trade therein, or out of any business conducted by such person or company,

in writing or by telegram direct any person or company having on deposit or under control or for safekeeping any funds or securities of the person or company referred to in clause *a, b, c* or *d* to hold such funds or securities or direct the person or company referred to in clause *a, b, c* or *d* to refrain from withdrawing any such funds or securities from any other person or company having any of them on deposit, under control or for safekeeping or to hold all funds or securities of clients or others in his possession or control in trust for any interim receiver, custodian, trustee, receiver or liquidator appointed under the *Bankruptcy Act* (Canada), *The Judicature Act*, *The Corporations Act*, *The Business Corporations Act*, the *Winding-up Act* (Canada) or section 17 of this Act, or until the Commission in writing revokes the direction or consents to release any particular fund or security from the direction, provided that no such direction applies to funds or securities in a stock exchange clearing house or to securities in process of transfer by a transfer agent unless the direction expressly so states, and in the case of a bank, loan or trust company, the direction applies only to the offices, branches or agencies thereof named in the direction.

R.S.C. 1970,
cc. B-3, W-10,
R.S.O. 1970,
cc. 228, 89, 53

(2) Any person or company named in a direction issued under subsection 1 may, if in doubt as to the application of the direction to particular funds or securities, apply to the Commission for an order of clarification. R.S.O. 1970, c. 426, s. 26 (1, 2), *amended*.

Application
for
directions

(3) Upon the application of a person or company directly affected by a direction issued under subsection 1, the Commission may make an order on such terms and conditions it may impose revoking the direction or consenting to the release of any fund or security. *New*.

Revocation
or
amendment
of direction

(4) In any of the circumstances mentioned in clause *a, b, c*, or *d* of subsection 1, the Commission may in writing or by telegram notify any land registrar or mining recorder that proceedings are being or are about to be taken that may affect land or mining claims belonging to the person or company referred to in the notice, which notice shall be registered or recorded against the lands or claims mentioned therein and has the same effect as the registration or recording of a certificate of *lis pendens* or a caution, and the Commission may in writing revoke or modify the notice. R.S.O. 1970, c. 426, s. 26 (3), *amended*.

Notice to
land registry
offices

Appointment
of receiver,
etc.

17.—(1) The Commission may,

- (a) where it is about to order an investigation in respect of a person or company under section 11 or during or after an investigation in respect of a person or company under section 11 or 13;
- (b) where it is about to make or has made an order under section 122 that trading in securities of an issuer shall cease;
- (c) where it is about to make or has made a decision suspending or cancelling the registration of any person or company or affecting the right of any person or company to trade in securities;
- (d) where criminal proceedings or proceedings in respect of a contravention of this Act or the regulations are about to be or have been instituted against any person or company that in the opinion of the Commission are connected with or arise out of any security or any trade therein, or out of any business conducted by such person or company; or
- (e) where a person or company fails or neglects to comply with the minimum net asset requirements, investment restrictions, ownership restrictions, or capital requirements prescribed by the regulations for such person or company,

apply to a judge of the Supreme Court for the appointment of a receiver, receiver and manager, trustee or liquidator of the property of such person or company.

Appointment

(2) Upon an application under subsection 1, the judge may, where he is satisfied that the appointment of a receiver, receiver and manager, trustee or liquidator of all or any part of the property of any person or company is in the best interests of the creditors of any such person or company or of persons or companies any of whose property is in the possession or under the control of such person or company, or, in a proper case, of the security holders of or subscribers to such person or company, appoint a receiver, receiver and manager, trustee or liquidator of the property of such person or company. R.S.O. 1970, c. 426, s. 27 (1, 2), *amended*.

Ex parte
application

(3) Upon an *ex parte* application made by the Commission under this section, the judge may make an order under subsection 2 appointing a receiver, receiver and manager, trustee or liquidator for a period not exceeding fifteen days. R.S.O. 1970, c. 426, s. 27 (3), *amended*.

(4) A receiver, receiver and manager, trustee or liquidator of the property of any person or company appointed under this section shall be the receiver, receiver and manager, trustee or liquidator of all or any part of the property belonging to the person or company or held by the person or company on behalf of or in trust for any other person or company, and the receiver, receiver and manager, trustee or liquidator shall have authority, if so directed by the judge, to wind up or manage the business and affairs of the person or company and all powers necessary or incidental thereto. Powers of receiver, etc.

(5) An order made under this section may be enforced in the same manner as any order or judgment of the Supreme Court and may be varied or discharged upon an application made by notice. Enforcement of order

(6) Upon an application made under this section, the rules of practice of the Supreme Court apply. R.S.O. 1970, c. 426, s. 27 (4-6), *amended*. Rules of practice

PART VII

AUDITS

18.—(1) Notwithstanding anything in sections 19, 20 and 21, the Commission may in writing appoint any person to examine at any time, Audits by Commission

- (a) the financial affairs of a registrant or a reporting issuer; and
- (b) the books and records of a custodian of assets of a mutual fund or of a custodian of shares or units of a mutual fund under a custodial agreement or other arrangement with a person or company engaged in the distribution of shares or units of the mutual fund,

and prepare such financial or other statements and reports that may be required by the Commission.

(2) The person making an examination under this section may inquire into and examine all books of account, securities, cash, documents, bank accounts, vouchers, correspondence and records of every description of the person or company whose financial affairs are being examined, and no person or company shall withhold, destroy, conceal or refuse to give any information or thing reasonably required for the purpose of the examination. Access to records

(3) The Commission may charge such fees as may be prescribed by the regulations for any examination made under this section. R.S.O. 1970, c. 426, s. 33, *amended*. Fees

PART VIII

SELF-REGULATION—GENERALLY

Panel of
auditors

19. Every stock exchange in Ontario recognized by the Commission, the Ontario District of the Investment Dealers' Association of Canada, the Broker-Dealers' Association of Ontario, and the Canadian Mutual Funds Association shall,

- (a) select a panel of auditors, each of whom shall have practised as such in Ontario for not fewer than five years and shall be known as a panel auditor or members' auditor; and
- (b) employ an exchange auditor, district association auditor or association auditor, as the case may be, whose appointment is subject to the approval of the Commission, and the appointee shall be an auditor who has practised as such in Ontario for not fewer than ten years. R.S.O. 1970, c. 426, s. 30.

Audits by
stock
exchange and
associations

20.—(1) Every stock exchange in Ontario recognized by the Commission, the Ontario District of the Investment Dealers' Association of Canada, the Broker-Dealers' Association of Ontario and the Canadian Mutual Funds Association shall cause each member of such class or classes of their members as the Commission may designate in writing to appoint an auditor from the panel of auditors selected under clause *a* of section 19 and such auditor shall make the examination of the financial affairs of such member as called for by the by-laws, rules or regulations applicable to members of such class or classes and shall report thereon to the exchange auditor, district association auditor or association auditor, as the case may be.

Audit by-laws
subject to
approval

(2) The by-laws, rules and regulations of every stock exchange in Ontario recognized by the Commission, the rules and regulations of the Ontario District of the Investment Dealers' Association of Canada, the regulations of the Broker-Dealers' Association of Ontario and the by-laws, rules and regulations of the Canadian Mutual Funds Association in respect of the practice and procedure of the examinations under subsection 1 are subject to the approval of the Commission and the actual conduct of the examinations shall be satisfactory to the Commission. R.S.O. 1970, c. 426, s. 31.

Filing of
financial
statements of
registrants

21. Every registrant whose financial affairs are not subject to examination under section 20 shall keep such books and records as are necessary for the proper recording

of his business transactions and financial affairs and shall deliver to the Commission annually and at such other time or times as the Commission may require a financial statement satisfactory to the Commission as to his financial position, certified by such registrant or an officer or partner of such registrant and reported upon by the auditor of such registrant, and shall deliver to the Commission such other information as the Commission may require in such form as it may prescribe. R.S.O. 1970, c. 426, s. 32.

PART IX

STOCK EXCHANGES

22.—(1) No person or company shall carry on business as a stock exchange in Ontario unless such stock exchange is recognized in writing as such by the Commission. Stock exchanges

(2) The Commission may, where it appears to it to be in the public interest, make any decision, Commission's powers

- (a) with respect to the manner in which any stock exchange in Ontario carries on business;
- (b) with respect to any by-law, ruling, instruction, or regulation of any such stock exchange;
- (c) with respect to trading on or through the facilities of any such stock exchange or with respect to any security listed and posted for trading on any such stock exchange; or
- (d) to ensure that issuers whose securities are listed and posted for trading on any such stock exchange comply with this Act and the regulations.

(3) Any person or company directly affected by any direction, order or decision made under any by-law, rule or regulation of a stock exchange in Ontario may apply to the Commission for a hearing and review thereof and section 8 applies to the hearing and review in the same manner as to the hearing and review of a decision of the Director. R.S.O. 1970, c. 426, s. 140. Review of decisions of stock exchange

23. Every stock exchange in Ontario shall keep a record showing the time at which each transaction on such stock exchange took place and shall supply to any customer of any member of such stock exchange, upon production of a written confirmation of any transaction with such member, particulars of the time at which the transaction took place and verification or otherwise of the matters set forth in the confirmation. R.S.O. 1970, c. 426, s. 141. Record of transactions

PART X

REGISTRATION

Registration
for trading

24.—(1) No person or company shall,

- (a) trade in a security unless such person or company is registered as a dealer, or is registered as a salesman or as a partner or as an officer of a registered dealer and is acting on behalf of such dealer;
- (b) act as an underwriter unless such person or company is registered as an underwriter;
- (c) act as an adviser unless such person or company is registered as an adviser, or is registered as a partner or as an officer of a registered adviser and is acting on behalf of such adviser;
- (d) act as a mutual fund unless such person or company is registered as a mutual fund;
- (e) act as a management company unless such person or company is registered as a management company; or
- (f) act as a contractual plan service company unless such person or company is registered as a contractual plan service company,

and such registration has been made in accordance with this Act and the regulations and such person or company has received written notice of such registration from the Director and, where such registration is subject to terms and conditions, the person or company complies with such terms and conditions. R.S.O. 1970, c. 426, s. 6 (1).

Termination
re salesman

(2) The termination of the employment of a salesman with a registered dealer shall operate as a suspension of the registration of the salesman until notice in writing has been received by the Director from another registered dealer of the employment of the salesman by such other registered dealer and the reinstatement of the registration has been approved by the Director.

(3) The Director may designate as non-trading any employee ^{Non-trading employee} or class of employees of a registered dealer that does not usually sell securities, but the designation may be cancelled as to any employee or class of employees where the Director is satisfied that any such employee or any member of such class of employees should be required to apply for registration as a salesman. R.S.O. 1970, c. 426, s. 6 (4, 5).

25.—(1) The Director shall grant registration, renewal of registration, reinstatement of registration or amendment to registration to an applicant where in the opinion of the Director the applicant is suitable for registration and the proposed registration or amendment to registration is not objectionable. R.S.O. 1970, c. 426, s. 7 (1), *amended*. ^{Granting of registration}

(2) The Director may in his discretion restrict a registration by imposing terms and conditions thereon and, without limiting the generality of the foregoing, may restrict the duration of a registration and may restrict the registration to trades in certain securities or a certain class of securities. R.S.O. 1970, c. 426, s. 7 (3). ^{Terms and conditions}

(3) The Director shall not refuse to grant, renew, reinstate or amend registration or impose terms and conditions thereon without giving the applicant an opportunity to be heard. R.S.O. 1970, c. 426, s. 7 (2). ^{Refusal}

26.—(1) The Commission, after giving a registrant an opportunity to be heard, may suspend, cancel, restrict or impose terms and conditions upon the registration or reprimand the registrant where in its opinion such action is in the public interest. ^{Suspension, cancellation, etc.}

(2) Where the delay necessary for a hearing under subsection 1 would, in the opinion of the Commission, be prejudicial to the public interest, the Commission may suspend the registration without giving the registrant an opportunity to be heard, in which case it shall forthwith notify the registrant of the suspension and of a hearing and review to be held before the Commission within fifteen days of the date of the suspension, which hearing and review shall be deemed to be a hearing and review under section 8. R.S.O. 1970, c. 426, s. 8, *amended*. ^{Interim suspension}

(3) Notwithstanding subsection 1, the Commission may, upon an application by a registrant, accept, subject to such terms and conditions as it may impose, the voluntary surrender of the registration of the registrant where it is satisfied the financial obligations of the registrant to its clients have been discharged and the surrender of the registration would not be prejudicial to the public interest. ^{Surrender}
New.

Subsequent applications

27. A further application for registration may be made upon new or other material or where it is clear that material circumstances have changed. R.S.O. 1970, c. 426, s. 9.

Application

28. An application for registration shall be made in writing upon a form prescribed by the regulations and provided by the Commission, and shall be accompanied by such fee as may be prescribed by the regulations. R.S.O. 1970, c. 426, s. 10.

Address for service

29. Every applicant shall state in the application an address for service in Ontario and, except as otherwise provided in this Act, all notices under this Act or the regulations are sufficiently served for all purposes if delivered or sent by prepaid mail to the latest address for service so stated. R.S.O. 1970, c. 426, s. 11.

Further information

30. The Director may require any further information or material to be submitted by an applicant or a registrant within a specified time and may require verification by affidavit or otherwise of any information or material then or previously submitted or may require the applicant or the registrant or any partner, officer, director, governor or trustee of, or any person performing a like function for, or any employee of, the applicant or of the registrant to submit to examination under oath by a person designated by the Director. R.S.O. 1970, c. 426, s. 12, *amended*.

Residence

31.—(1) The Director may refuse registration to an individual if he has not been a resident of Canada for at least one year immediately prior to the date of application for registration and if he is not a resident of Ontario at the date of such application unless at the time of such application such individual is registered in a capacity corresponding to that of a dealer, adviser, underwriter, mutual fund, management company, contractual plan service company, partner, officer, or salesman under the securities laws of the jurisdiction in which he last resided and has been so registered for a period of not less than one year immediately preceding the date of the application and is, in the opinion of the Director, otherwise suitable for registration.

Idem

(2) The Director may refuse registration to a person or company if any director or officer of such person or company has not been a resident of Canada for at least one year immediately prior to the date of application for registration and is not a resident of Ontario at the date

of such application unless at the time of such application he is registered in a capacity corresponding to that of a dealer, adviser, underwriter, mutual fund, management company, contractual plan service company, partner, officer or salesman under the securities laws of the jurisdiction in which he last resided and has been so registered for a period of not less than one year immediately preceding the date of the application and is, in the opinion of the Director, otherwise suitable for registration. R.S.O. 1970, c. 426, s. 14, *amended*.

32.—(1) Every registered dealer shall, within five days of the event, notify the Director in the form prescribed by the regulations of, Notice of changes

- (a) any change in address for service in Ontario or any business address;
- (b)
 - (i) any change in the directors or officers of the registered dealer and in the case of resignation, dismissal, severance or termination of employment or office, the reason therefor, and
 - (ii) any change in the holders of the voting securities of the registered dealer;
- (c) the commencement and termination of employment of every salesman and, in the case of termination of employment, the reason therefor;
- (d) the opening or closing of any branch office in Ontario and, in the case of the opening of any branch office in Ontario, the name and address of the person in charge thereof; and
- (e) any change in the name or address of the person in charge of any branch office in Ontario.

(2) Every registered adviser, underwriter, mutual fund, management company, and contractual plan service company shall, within five days of the event, notify the Director in the form prescribed by the regulations of, Idem

- (a) any change in address for service in Ontario or any business address; and
- (b)
 - (i) any change in the directors or officers of the registered adviser, underwriter, mutual fund, management company or contractual plan service company and in the case of resignation, dismissal, severance or termination of employment or office, the reason therefor, and

- (ii) any change in the holders of the voting securities of the registered adviser, underwriter, mutual fund, management company or contractual plan service company.

Idem

(3) Every registered salesman shall, within five days of the event, notify the Director in the form prescribed by the regulations of,

- (a) any change in his address for service in Ontario or in his business address; and
- (b) every commencement and termination of his employment by a registered dealer.

Exemptions

(4) The Director may, upon an application of a registrant that is a reporting issuer, exempt, subject to such terms and conditions as he may impose, the registrant from the requirement of subsections 1 and 2 that the Director be notified of any change in the holders of voting securities of the registrant where in his opinion it would not be prejudicial to the public interest to do so. R.S.O. 1970, c. 426, s. 15, *amended*.

PART XI

EXEMPTIONS FROM REGISTRATION REQUIREMENTS

Exemptions
of advisers

33. Registration as an adviser is not required to be obtained by,

R.S.C. 1970,
cc. B-1, I-9

- (a) a bank to which the *Bank Act* (Canada) applies, or the Industrial Development Bank incorporated under the *Industrial Development Bank Act* (Canada), or a trust company registered under *The Loan and Trust Corporations Act*, or an insurance company licensed under *The Insurance Act*;

R.S.O. 1970,
cc. 254, 224

- (b) a lawyer, accountant, engineer or teacher;
- (c) a registered dealer, or any partner, officer or employee thereof; and
- (d) a publisher of or any writer for any *bona fide* newspaper, news magazine or business or financial publication of general and regular paid circulation distributed only to subscribers thereto for value or to purchasers thereof, who gives advice as an adviser only through such publication and has no interest either directly or indirectly in any of the securities upon which the advice is given and receives no

commission or other consideration for giving the advice,

where the performance of the service as an adviser is solely incidental to their principal business or occupation; or

- (e) a management company; or
- (f) such other persons or companies as are designated by the regulations. R.S.O. 1970, c. 426, s. 18, *amended*.

34. Registration as a mutual fund is not required to be obtained by, Exemptions
of mutual
funds

- (a) an investment club if,
 - i. its shares or units are held by not more than fifty persons,
 - ii. it does not pay or give any remuneration under a management contract or in respect of any trade in securities except normal brokerage fees, and
 - iii. all of its members are required to make contributions in proportion to the shares or units each holds for the purpose of investment;
- (b) a trust company registered under *The Loan and Trust Corporations Act* that issues securities in respect of, R.S.O. 1970,
c. 254
 - i. an account solely to service a retirement savings plan registered under the *Income Tax Act* (Canada), or 1970-71,
c. 63 (Can.)
 - ii. a pooled account in respect of which it does not solicit participation;
- (c) an insurance company licensed under the *Insurance Act*; R.S.O. 1970,
c. 224
- (d) such other persons or companies as are designated by the regulations. *New*.

35.—(1) Subject to the regulations, registration is not required in respect of the following trades: Exemption
of trades

- 1. A trade by an executor, administrator, guardian or committee or by an authorized trustee or assignee, an interim or official receiver or a custodian

R.S.C. 1970,
cc. B-3, W-10
R.S.O. 1970,
cc. 228, 89, 53

under the *Bankruptcy Act* (Canada) or by a receiver under *The Judicature Act* or by a liquidator under *The Corporations Act*, *The Business Corporations Act*, or the *Winding-up Act* (Canada), or at a judicial sale.

2. An isolated trade in a specific security by or on behalf of an owner or issuer, for the owner's or issuer's account, where such trade is not made in the course of continued and successive transactions of a like nature, and is not made by a person or company whose usual business is trading in securities.

3. A trade where the party purchasing as principal is,

R.S.C. 1970,
cc. B-1, I-9

- i. a bank to which the *Bank Act* (Canada) applies, or the Industrial Development Bank incorporated under the *Industrial Development Bank Act* (Canada),

R.S.O. 1970,
c. 254

- ii. a loan corporation or trust company registered under *The Loan and Trust Corporations Act*,

R.S.O. 1970,
c. 224

- iii. an insurance company licensed under *The Insurance Act*,

- iv. Her Majesty in right of Canada or any province or territory of Canada, or

- v. any municipal corporation or public board or commission in Canada.

4. A trade where the party purchasing as principal is a company or a person, other than an individual, and is recognized by the Commission as an exempt purchaser.

5. A trade where the purchaser purchases as principal, if the trade is in a security which has an aggregate acquisition cost to such purchaser of not less than \$97,000.

6. A trade from the holdings of any person, company or combination of persons or companies described in subparagraph iii of paragraph 12 of subsection 1 of section 1 for the purpose of giving collateral for a *bona fide* debt.

7. A trade by or for the account of a pledgee, mortgagee or other encumbrancer for the purpose of liquidating a *bona fide* debt by selling or offering

for sale a security pledged, mortgaged or otherwise encumbered in good faith as collateral for the debt.

8. A trade in a security that may occasionally be transacted by employees of a registered dealer where the employees do not usually sell securities and have been designated by the Director as non-trading employees, either individually or as a class.
9. A trade between a person or company and an underwriter acting as purchaser or between or among underwriters.
10. A trade in a security by a person or company,
 - (a) acting solely through an agent who is a registered dealer; or
 - (b) who places an unsolicited order to purchase or sell with,
 - i. a bank to which the *Bank Act* (Canada) ^{R.S.C. 1970, c. B-1} applies, or
 - ii. a trust company registered under *The* ^{R.S.O. 1970, c. 254} *Loan and Trust Corporations Act*,

for execution through an agent who is a registered dealer.
11. A trade by an issuer,
 - i. in a security of its own issue that is distributed by it to holders of its securities as a stock dividend or other distribution out of earnings or surplus,
 - ii. in a security whether of its own issue or not that is distributed by it to holders of its securities as incidental to a *bona fide* re-organization or winding-up of such issuer or distribution of its assets for the purpose of winding up its affairs pursuant to the laws of the jurisdiction in which the issuer is incorporated, organized or continued,
 - iii. in a right, transferable or otherwise, granted by the issuer to holders of its securities to purchase additional securities of its own issue and the issue of securities pursuant to the

exercise of the right if the issuer has given the Commission written notice stating the date, amount, nature and conditions of the proposed sale, including the approximate net proceeds to be derived by the issuer on the basis of such additional securities being fully taken up and paid for, and either,

(a) the Commission has not informed the issuer in writing within ten days of the giving of such notice that it objects to the proposed trade; or

(b) the issuer has delivered to the Commission information relating to the security that is satisfactory to, and accepted by, the Commission, or

iv. in securities of its own issue transferred or issued through the exercise of a right to purchase or convert previously granted by such issuer,

provided that, with respect to any trade referred to in subparagraph i or ii, no commission or other remuneration is paid or given to others in respect of such distribution except for ministerial or professional services or for services performed by a registered dealer.

12. A trade in a security of a company that is exchanged by or for the account of such company with another company or the holders of the securities of that other company in connection with,

(a) a statutory amalgamation or arrangement; or

(b) a statutory procedure under which one company takes title to the assets of the other company which in turn loses its existence by operation of law, or under which the existing companies merge into a new company.

13. A trade in a security of a company that is exchanged by or for the account of such company with the security holders of another company in connection with a take-over bid as defined in Part XIX.

14. A trade in a security of an issuer in connection with an exempt offer as defined in Part XIX.

15. A trade by an issuer in a security of its own issue as consideration for a portion or all of the assets of any person or company, if the fair value of the assets so purchased is not less than \$100,000.
16. A trade by an issuer in the securities of its own issue with its employees or the employees of an affiliate who are not induced to purchase by expectation of employment or continued employment.
17. A trade made between an issuer in securities of its own issue and not more than twenty-five purchasers or made between such purchasers if each of the following requirements is satisfied,
 - i. each purchaser purchases as principal,
 - ii. each such purchaser,
 - (a) is an investor who, by virtue of his net worth and investment experience or by virtue of consultation with or advice from a registered adviser, is able to evaluate the prospective investment on the basis of information respecting the investment presented to him by the issuer or has access to substantially the same information concerning the issuer which the filing of a prospectus under this Act would provide; or
 - (b) is a senior officer or director of the issuer or his spouse, parent, brother, sister, or child,
 - iii. the offer and sale of the securities are not accompanied by an advertisement and no selling or promotional expenses have been paid or incurred in connection therewith, except for professional services or for services performed by a registered dealer,
 - iv. the solicitation in respect of the securities has not been made to more than fifty prospective purchasers, and
 - v. there are not more than twenty-five beneficial owners of securities as a result of trades pursuant to this exemption.

18. A trade in respect of which the regulations provide that registration is not required.

Exemption
re securities

- (2) Subject to the regulations, registration is not required to trade in the following securities:

1. Bonds, debentures or other evidences of indebtedness,

(a) of or guaranteed by the Government of Canada or any province of Canada or by the Government of the United Kingdom or any foreign country or any political division thereof;

(b) of any municipal corporation in Canada, including debentures issued for public, separate, secondary or vocational school purposes, or guaranteed by any municipal corporation in Canada, or secured by or levied under the law of any province of Canada on property in such province and collectable by or through the municipality in which such property is situated;

(c) of or guaranteed by a bank to which the *Bank Act* (Canada) applies, a trust company or loan corporation registered under *The Loan and Trust Corporations Act* or an insurance company licensed under *The Insurance Act*; or

(d) of or guaranteed by the International Bank for Reconstruction and Development established by the Agreement for an International Bank for Reconstruction and Development approved by the *Bretton Woods Agreements Act* (Canada), if the bonds, debentures, or evidences of indebtedness are payable in the currency of Canada or the United States of America.

R.S.C. 1970,
c. B-1
R.S.O. 1970,
cc. 254, 224

R.S.C. 1970,
c. B-9

2. Contracts of insurance issued by an insurance company licensed under *The Insurance Act* other than variable contracts that do not guarantee to return on the termination of the policy an amount equal to at least three-quarters of the premiums paid to the date of termination.

3. Certificates or receipts issued by a trust company registered under *The Loan and Trust Corporations Act* for moneys received for guaranteed investment.

4. Securities issued by a trust company registered under *The Loan and Trust Corporations Act* in respect of an account maintained by it solely to service a retirement savings plan registered under the *Income Tax Act* (Canada) or a pooled account for participation in which no solicitation is made. 1970-71,
c. 63 (Can.)
5. Securities issued by an investment club if,
 - (a) its shares or units are held by not more than fifty persons;
 - (b) it does not pay or give any remuneration under a management contract or in respect of a trade in securities except normal brokerage fees; and
 - (c) all of its members are required to make contributions in proportion to the shares or units each holds for the purpose of investment.
6. Negotiable promissory notes or commercial paper maturing not more than one year from the date of issue, provided that each such note or commercial paper traded to an individual has a denomination or principal amount of not less than \$50,000.
7. Mortgages or other encumbrances upon real or personal property, other than mortgages or other encumbrances contained in or secured by a bond, debenture or similar obligation or in a trust deed or other instrument to secure bonds or debentures or similar obligations, if such mortgages or other encumbrances are offered for sale by a person or company registered or exempted from registration under *The Mortgage Brokers Act*. R.S.O. 1970,
c. 278
8. Securities evidencing indebtedness due under any conditional sales contract or other title retention contract providing for the acquisition of personal property if such securities are not offered for sale to an individual.
9. Securities issued by an issuer organized exclusively for educational, benevolent, fraternal, charitable, religious or recreational purposes and not for profit, where no part of the net earnings of such issuer enure to the benefit of any security holder and no commission or other remuneration is paid in connection with the sale thereof.

1973, c. 101

10. Securities issued by corporations to which *The Co-operative Corporations Act, 1973* applies.

R.S.O. 1970,
c. 96

11. Shares of a credit union within the meaning of *The Credit Unions Act*.

12. Securities of a private company.

13. Securities issued and sold by a prospector for the purpose of financing a prospecting expedition.

14. Securities issued by a prospecting syndicate that has filed a prospecting syndicate agreement under Part XIII for which the Director has issued a receipt, where such securities are sold by the prospector or one of the prospectors who staked claims that belong to or are the subject of a declaration of trust in favour of the prospecting syndicate, and the prospector delivers the copy of the prospecting syndicate agreement to the person or company purchasing the security before accepting payment therefor.

15. Securities issued by a prospecting syndicate that has filed a prospecting syndicate agreement under Part XIII for which the Director has issued a receipt, if such securities are not offered for sale to the public and are sold to not more than fifty persons or companies.

16. Securities issued by a mining company or a mining exploration company as consideration for mining claims where the vendor enters into such escrow or pooling agreement as the Director considers necessary.

17. Securities in respect of which the regulations provide that registration is not required. R.S.O. 1970, c. 426, s. 19 (1, 2); 1971, c. 31, s. 3, *amended*.

Trades
by trust
company
R.S.O. 1970,
c. 254

(3) For the purpose of subsection 1, a trust company registered under *The Loan and Trust Corporations Act* shall be deemed to be acting as principal when it trades as trustee for accounts fully managed by it. *New*.

PART XII

TRADING IN SECURITIES GENERALLY

Confirmation
of trade

36.—(1) Every registered dealer who has acted as principal or agent in connection with any trade in a security shall

promptly send by prepaid mail or deliver to the customer a written confirmation of the transaction, setting forth,

- (a) the quantity and description of the security;
 - (b) the consideration;
 - (c) whether or not the registered dealer is acting as principal or agent;
 - (d) if acting as agent in a trade, the name of the person or company from or to or through whom the security was bought or sold;
 - (e) the date and the name of the stock exchange, if any, upon which the transaction took place;
 - (f) the commission, if any, charged in respect of the trade; and
 - (g) the name of the salesman, if any, in the transaction.
- R.S.O. 1970, c. 426, s. 67 (1).

(2) Where a trade is made in a security of a mutual fund, ^{Idem} the confirmation shall contain, in addition to the requirements of subsection 1,

- (a) the price per share or unit at which the trade was effected; and
- (b) the amount deducted by way of sales, service and other charges.

(3) Where a trade is made in a security of a mutual fund ^{Idem} under a contractual plan, the confirmation shall contain in addition to the requirements of subsections 1 and 2,

- (a) in respect of an initial payment made under a contractual plan which requires the prepayment of sales, service and other charges, a statement of the initial payment and the portion of the sales, service and other charges that is allocated to subsequent investments in the mutual fund and the manner of allocation thereof;
- (b) in respect of each subsequent payment made under a contractual plan which requires the prepayment of sales, service and other charges, a statement of the portion of the sales, service and other charges, that is allocated to the payment which is the subject of the confirmation;

(c) in respect of an initial purchase made under a contractual plan which permits the deduction of sales, service and other charges from the first and subsequent instalments, a brief statement of the sales, service and other charges to be deducted from subsequent purchases;

(d) in respect of each purchase made under a contractual plan, a statement of the total number of shares or units of the mutual fund acquired and the amount of sales charges paid under the contractual plan up to the date the confirmation is sent or delivered.
New.

Coded
identification

(4) For the purposes of clauses *d* and *g* of subsection 1, a person or company or a salesman may be identified in a written confirmation by means of a code or symbols if the written confirmation also contains a statement that the name of the person, company or salesman will be furnished to the customer on request.

Filing
of code

(5) Where a person or company uses a code or symbols for identification in a confirmation under subsection 1, the person or company shall forthwith file the code or symbols and their meaning, and shall notify the Commission within five days of any change in or addition to the code or symbols or their meaning. R.S.O. 1970, c. 426, s. 67 (2, 3).

Disclosure
by agent

(6) Every dealer who has acted as agent in connection with any trade in a security shall promptly disclose to the Commission, upon request by the Commission, the name of the person or company from or to or through whom the security was bought or sold. R.S.O. 1970, c. 426, s. 67 (4), *amended*.

Order
prohibiting
calls to
residences

37.—(1) The Director may, by order, suspend, cancel, restrict or impose terms and conditions upon the right of any person or company named in the order to,

(a) call at any residence; or

(b) telephone from within Ontario to any residence within or outside Ontario,

for the purpose of trading in any security. R.S.O. 1970, c. 426, s. 68 (1), *amended*.

Hearing

(2) The Director shall not make an order under subsection 1 without giving the person or company affected an opportunity to be heard. *New.*

(3) In this section, "residence" includes any building or part of a building in which the occupant resides either permanently or temporarily and any premises appurtenant thereto. ^{"residence" defined}

(4) For the purposes of this section, a person or company shall be deemed conclusively to have called or telephoned where an officer, director or salesman of the person or company calls or telephones on its behalf. R.S.O. 1970, c. 426, s. 68 (3, 4). ^{What constitutes calls}

38.—(1) No person or company, with the intention of effecting a trade in a security, other than a security that carries an obligation of the issuer to redeem or purchase, or a right of the owner to require redemption or purchase, shall make any representation, written or oral, that he or any person or company, ^{Representations prohibited}

(a) will resell or repurchase; or

(b) will refund all or any of the purchase price of,

such security.

(2) No person or company, with the intention of effecting a trade in a security, shall give any undertaking, written or oral, relating to the future value or price of such security. ^{Future value}

(3) No person or company, with the intention of effecting a trade in a security, shall, except with the written permission of the Director, make any representation, written or oral, that such security will be listed on any stock exchange or that application has been or will be made to list such security upon any stock exchange. ^{Listing}

(4) This section does not apply to any representation referred to in subsection 1 made to a person, other than an individual, or to a company where the representation is contained in a written agreement signed by the person or company intending to effect a trade in a security and the security has an aggregate acquisition cost of more than \$50,000. R.S.O. 1970, c. 426, s. 69. ^{Application of section}

39.—(1) Where a registered dealer, with the intention of effecting a trade in a security with any person or company other than another registered dealer, issues, publishes or sends a circular, pamphlet, letter, telegram or advertisement, and proposes to act in such trade as a principal, such registered dealer shall so state in the circular, pamphlet, letter, telegram or advertisement or otherwise in writing before entering into ^{Where dealer is principal}

a contract for the sale or purchase of any such security and before accepting payment or receiving any security or other consideration under or in anticipation of any such contract. R.S.O. 1970, c. 426, s. 70 (1).

Effect of statement

(2) A statement made in compliance with this section or clause c of subsection 1 of section 36 that a dealer proposes to act or has acted as principal in connection with a trade in a security does not prevent such dealer from acting as agent in connection with a trade of such security.

Application of section

(3) This section does not apply to trades referred to in subsection 1 of section 35 or to securities referred to in subsection 2 of section 35. R.S.O. 1970, c. 426, s. 70 (3, 4).

Disclosure of financial interest of advisers and dealers

40. Every registered adviser shall cause to be printed in a conspicuous position on every circular, pamphlet, advertisement, letter, telegram and other publication issued, published or sent out by him, in type not less legible than that used in the body of the circular, pamphlet, advertisement, letter or other publication, a full and complete statement of any financial or other interest that he or any partner, director, officer or a person or company that would be an insider of the adviser if the adviser was a reporting issuer may have either directly or indirectly in any securities referred to therein or in the sale or purchase thereof, including,

- (a) any ownership, beneficial or otherwise, that any of them may have in respect of such securities or in any securities issued by the same issuer;
- (b) any option that any of them may have in respect of such securities, and the terms thereof;
- (c) any commission or other remuneration that any of them has received or may expect to receive from any person or company in connection with any trade in such securities;
- (d) any financial arrangement relating to such securities that any of them may have with any person or company; and
- (e) any financial arrangement that any of them may have with any underwriter or other person or company who has any interest in the securities. R.S.O. 1970, c. 426, s. 72, *amended*.

Idem

41. Every registered dealer, that recommends a purchase, sale, exchange or hold of a security in any circular, pamphlet,

advertisement, letter, telegram or other publication issued, published or sent by it shall, in type not less legible than that used in the body of the publication, state whether it has at any time during the past year acted as an underwriter of such securities or as a financial adviser to the issuer of such securities or is presently acting as a financial adviser to the issuer of such securities or whether it will receive any fees as a result of the recommended action. *New.*

42. Every registered dealer shall publish the name of every person or company having an interest, either directly or indirectly, to the extent of not less than 5 per cent in the capital of the dealer, on all letterheads, circulars and stationery that contain any offer or solicitation respecting a trade in securities or in a preliminary prospectus or prospectus upon or in which the name of the registered dealer appears as underwriter. R.S.O. 1970, c. 426, s. 73, *amended*. Publication of names

43. No registrant shall use the name of another registrant on letterheads, forms, advertisements or signs, as correspondent or otherwise, unless he is a partner, officer or agent of or is authorized so to do in writing by the other registrant. R.S.O. 1970, c. 426, s. 74. Use of name of another registrant

44. No person or company shall hold himself out as being registered by having printed in a circular, pamphlet, advertisement, letter, telegram or other stationery that he is registered. R.S.O. 1970, c. 426, s. 75. Registration not to be advertised

45. No person or company who is not registered shall, either directly or indirectly, hold himself out as being registered. R.S.O. 1970, c. 426, s. 76. Holding out by unregistered person

46. No person or company shall make any representation, written or oral, that the Commission has in any way passed upon the financial standing, fitness or conduct of any registrant or upon the merits of any security or issuer. R.S.O. 1970, c. 426, s. 77. Advertising approval by Commission

47.—(1) Where a person, or a partner or employee of a partnership, or a director, officer or employee of a company, after he or the partnership or company has contracted as a registered dealer with any customer to buy and carry upon margin any securities of any issuer either in Canada or elsewhere, and while such contract continues, sells or causes to be sold securities of the same issuer for any account in which, Margin contracts

(a) he;

(b) his firm or a partner thereof; or

(c) the company or a director thereof,

has a direct or indirect interest, if the effect of such sale would, otherwise than unintentionally, be to reduce the amount of such securities in the hands of the dealer or under his control in the ordinary course of business below the amount of such securities that the dealer should be carrying for all customers any such contract with a customer is, at the option of the customer, voidable, and the customer may recover from the dealer all moneys paid with interest thereon or securities deposited in respect thereof.

Exercise
of option

(2) The customer may exercise such option by a notice to that effect sent by prepaid mail addressed to the dealer at his address for service in Ontario. R.S.O. 1970, c. 426, s. 78.

Declaration
as to short
position

48. Any person or company who places an order for the sale of a security through an agent acting for him that is a registered dealer and, who,

(a) at the time of placing the order, does not own the security; or

(b) if acting as agent, knows his principal does not own the security,

shall, at the time of placing the order to sell, declare to his agent that he or his principal, as the case may be, does not own the security. R.S.O. 1970, c. 426, s. 79.

Shares in
name of
registrant
not to be
voted

49.—(1) Subject to subsection 4, voting securities of an issuer registered in the name of,

(a) a registrant or in the name of his nominee; or

(b) a custodian or in the name of his nominee, where such issuer is a mutual fund,

that are not beneficially owned by the registrant or the custodian, as the case may be, shall not be voted by the registrant or custodian at any meeting of security holders of the issuer.

Forwarding
of informa-
tion by
registrant

(2) Forthwith after receipt of a copy of a notice of a meeting of security holders of an issuer, the registrant or custodian shall, where the name and address of the beneficial owner of securities registered in the name of the registrant or custodian are known, send or deliver to each beneficial owner of such security, a copy of any notice, financial statement, information circular or other material unless the beneficial

owner agrees in writing that such notice, statements, circular and other material need not be sent or delivered. R.S.O. 1970, c. 426, s. 80 (1), *amended*.

(3) At the request of a registrant or custodian, the person or company sending material referred to in subsection 2 shall forthwith furnish to the registrant or custodian, at the expense of the sender, the requisite number of copies of the material. Copies of information

(4) A registrant or custodian shall vote or give a proxy requiring a nominee to vote any voting securities referred to in subsection 1 in accordance with any written voting instructions received from the beneficial owner. Voting of shares

(5) A registrant or custodian shall, if requested in writing by a beneficial owner, give to the beneficial owner or his nominee a proxy enabling the beneficial owner or his nominee to vote any voting securities referred to in subsection 1. R.S.O. 1970, c. 426, s. 80 (3-5), *amended*. Proxies

(6) For the purpose of this section, "custodian" means a custodian of securities issued by a mutual fund held for the benefit of plan holders under a custodial agreement or other arrangement with a person or company engaged in, or administering a contractual plan in relation to, the distribution of securities of the mutual fund. *New*. "custodian" defined

50.—(1) Subject to subsections 2 and 3, no registered dealer shall purchase or sell shares or units of a mutual fund except in accordance with the terms of an agreement between such registered dealer and a distribution company or the mutual fund. Prohibition re secondary market in mutual fund shares

(2) The Commission may, upon application of a distribution company or mutual fund, order that the prohibition contained in subsection 1 shall not apply in respect of the shares or units of a mutual fund mentioned in the order, where it is satisfied that adequate arrangements have been made, Exemption by Commission

- (a) to permit the distribution company or mutual fund to carry out adequately its responsibilities relating to the distribution of such shares or units;
- (b) by the distribution company or mutual fund to prevent dealers in the shares or units of the mutual fund from taking undue advantage of the availability of the right to redeem the shares or units of the mutual fund; and
- (c) to facilitate enforcement of the penalty prescribed by the regulations for the early redemption of shares or

units of the mutual fund in a transaction in which the total consideration paid or to be paid by the purchaser for the shares or units is more than the sum of \$50,000.

Application
of subs. 1

(3) Subsection 1 does not apply to the shares or units of a mutual fund in respect of which a prospectus has not been filed and a receipt therefor issued by the Director within the preceding fifteen months. *New.*

Submission
of
advertising

51.—(1) The Commission may, after giving the registered dealer an opportunity to be heard, and upon being satisfied that the registered dealer's past conduct with respect to the use of advertising and sales literature affords reasonable grounds for belief that it is necessary for the protection of the public to do so, order that the registered dealer shall deliver to the Commission at least seven days before it is used, copies of all advertising and sales literature which the registered dealer proposes to use in connection with trading in securities.

Interpre-
tation

(2) For the purposes of this section,

(a) "advertising" includes television and radio commercials, newspaper and magazine advertisements and all other sales material generally disseminated through the communications media; and

(b) "sales literature" includes records, videotapes and similar material, written matter and all other material, except preliminary prospectuses and prospectuses, designed for use in a presentation to a purchaser, whether such material is given or shown to him.

Prohibition
of
advertising

(3) Where the Commission has issued an order pursuant to subsection 1, the Director may prohibit the use of the advertising and sales literature so delivered or may require that deletions or changes be made prior to its use.

Rescission
or variation
of order

(4) Where an order has been made pursuant to subsection 1, the Commission, on application of the registered dealer at any time after the date thereof, may rescind or vary the order where in its opinion it is not contrary to the public interest to do so. *New.*

Resale price
maintenance

52.—(1) Subject to subsection 2, no mutual fund or distribution company shall, by any device or arrangement, whether oral or in writing, prevent or attempt to prevent any registrant, excepting one of its salesmen, where it is a dealer, from reducing any portion of sales charges that is payable to

such registrant upon the sale by such registrant of securities of the mutual fund if the sole purpose of the reduction is to enable the purchaser to purchase the securities at a proportionately lower price.

(2) A mutual fund or distribution company may refuse to sell the securities of the mutual fund to or through any dealer if the distribution company has reasonable cause to believe and does believe, ^{Refusal to sell through dealer}

- (a) that such dealer is operating a secondary market in the securities of the mutual fund;
- (b) that such dealer was making a practice of using securities of the mutual fund supplied by it not for the purpose of making a profit thereon, but for the purpose of advertising;
- (c) that such dealer was making a practice of using securities of the mutual fund supplied by it not for the purpose of selling them at a profit but for the purpose of attracting clients in the hope of selling them other securities;
- (d) that such dealer was making a practice of engaging in misleading advertising in respect of the securities of the mutual fund supplied by it; or
- (e) that such dealer made a practice of not providing the level of servicing that purchasers of the securities of the mutual fund might reasonably expect from such dealer. *New.*

PART XIII

PROSPECTING SYNDICATES

53.—(1) Upon the filing of a prospecting syndicate agree- ^{Agreements}ment and the issuance of a receipt therefor by the Director, the liability of the members of the syndicate or parties to the agreement is limited to the extent provided by the terms of the agreement where,

- (a) the sole purpose of the syndicate is the financing of prospecting expeditions, preliminary mining development, or the acquisition of mining properties, or any combination thereof;
- (b) the agreement clearly sets out,
 - (i) the purpose of the syndicate,

- (ii) the particulars of any transaction effected or in contemplation involving the issue of units for a consideration other than cash,
- (iii) the maximum amount, not exceeding 25 per cent of the sale price, that may be charged or taken by a person or company as commission upon the sale of units in the syndicate,
- (iv) the maximum number of units in the syndicate, not exceeding $33\frac{1}{3}$ per cent of the total number of units of the syndicate, that may be issued in consideration of the transfer to the syndicate of mining properties,
- (v) the location of the principal office of the syndicate and that the principal office shall at all times be maintained in Ontario and that the Director and the members of the syndicate shall be notified immediately of any change in the location of the principal office,
- (vi) that a person or company holding mining properties for the syndicate shall execute a declaration of trust in favour of the syndicate with respect to such mining properties,
- (vii) that after the sale for cash of any issued units of the syndicate no mining properties shall be acquired by the syndicate other than by staking unless such acquisition is approved by members of the syndicate holding at least two-thirds of the issued units of the syndicate that have been sold for cash,
- (viii) that the administrative expenditures of the syndicate, including, in addition to any other items, salaries, office expenses, advertising and commissions paid by the syndicate with respect to the sale of its units, shall be limited to one-third of the total amount received by the treasury of the syndicate from the sale of its units,
- (ix) that a statement of the receipts and disbursements of the syndicate shall be furnished to the Director and to each member annually,
- (x) that 90 per cent of the vendor units of the syndicate shall be escrowed units and may be released upon the consent of the Director and that any release of such units shall not be in excess of one vendor unit for each unit of the syndicate sold for cash,

- (xi) that no securities, other than those of the syndicate's own issue, and no mining properties owned by the syndicate or held in trust for the syndicate shall be disposed of unless such disposal is approved by members of the syndicate holding at least two-thirds of the issued units of the syndicate other than escrowed units; and

(c) the agreement limits the capital of the syndicate to a sum not exceeding \$100,000.

(2) The Director may in his discretion issue a receipt for a prospecting syndicate agreement filed under this section and is not required to determine whether it is in conformity with clauses *a*, *b* and *c* of subsection 1. Receipt for filed agreement

(3) After a receipt is issued by the Director for a prospecting syndicate agreement, the requirements of *The Partnerships Registration Act* as to filing do not apply to the prospecting syndicate. Application of R.S.O. 1970, c. 340

(4) No registered dealer shall trade in a security issued by a prospecting syndicate either as agent for the prospecting syndicate or as principal. R.S.O. 1970, c. 426, s. 34, *amended*. Prohibition of trading by dealer

(5) The Director shall not refuse to issue a receipt under subsection 1 without giving the person or company who filed the prospecting syndicate agreement an opportunity to be heard. *New*. Receipt

PART XIV

PROSPECTUSES—DISTRIBUTION

54.—(1) No person or company shall trade in a security on his own account or on behalf of any other person or company where such trade would be a distribution of such security unless a preliminary prospectus and a prospectus have been filed and receipts therefor obtained from the Director. R.S.O. 1970, c. 426, s. 35 (1), *amended*. Prospectus required

(2) A preliminary prospectus and a prospectus may be filed in accordance with this Part to enable the issuer to become a reporting issuer, notwithstanding the fact that no distribution is contemplated. *New*. Filing without distribution

55.—(1) A preliminary prospectus shall substantially comply with the requirements of this Act and the regulations respecting the form and content of a prospectus, except Preliminary prospectus

that the report or reports of the auditor or accountant required by the regulations need not be included.

Idem (2) A preliminary prospectus may exclude information with respect to the price to the underwriter and offering price of any securities and other matters dependent upon or relating to such prices. R.S.O. 1970, c. 426, s. 38, *amended*.

Receipt for preliminary prospectus **56.** The Director shall issue a receipt for a preliminary prospectus forthwith upon the filing thereof. R.S.O. 1970, c. 426, s. 35 (2).

Prospectus **57.—**(1) A prospectus shall provide full, true, and plain disclosure of all material facts relating to the securities issued or proposed to be distributed and shall comply with the requirements of this Act and the regulations.

Supplemental material (2) The prospectus shall contain or be accompanied by such financial statements, reports, or other documents as are required by this Act or the regulations. R.S.O. 1970, c. 426, s. 41, *amended*.

Amendment to preliminary prospectus on material change **58.—**(1) Where a material adverse change occurs after a receipt is obtained for a preliminary prospectus filed in accordance with subsection 1 of section 54 and before the receipt for the prospectus is obtained or, where a material change occurs after the receipt for the prospectus is obtained but prior to the completion of the distribution under such prospectus, an amendment to such preliminary prospectus or prospectus, as the case may be, shall be filed as soon as practicable and in any event within ten days after the change occurs.

Notice of amendment (2) An amendment to a preliminary prospectus referred to in subsection 1 shall, forthwith after it has been filed, be forwarded to each recipient of the preliminary prospectus according to the record maintained under section 68. R.S.O. 1970, c. 426, s. 40 (2, 3), *amended*.

Certificate by issuer **59.—**(1) Subject to subsection 3, a prospectus filed under subsection 1 of section 54 shall contain a certificate in the following form, signed by the chief executive officer, the chief financial officer, and, on behalf of the board of directors, any two directors of the issuer, other than the foregoing, duly authorized to sign, and any person or company who is a promoter of the issuer:

The foregoing constitutes full, true and plain disclosure of all material facts relating to the securities offered by this prospectus as required by Part XIV of The Securities Act, 1975 and the regulations thereunder.

(2) Subject to subsection 3, a prospectus filed under subsection 2 of section 54 shall contain a certificate in the following form, signed by the chief executive officer, the chief financial officer, and, on behalf of the board of directors, any two directors of the issuer, other than the foregoing, duly authorized to sign, and any person or company who is a promoter of the issuer: Idem

The foregoing constitutes full, true and plain disclosure of all material facts relating to the securities previously issued by the issuer as required by Part XIV of The Securities Act, 1975 and the regulations thereunder.

(3) Where the issuer has only three directors, two of whom are the chief executive officer and the chief financial officer, the certificate may be signed by all the directors of the issuer. Idem

(4) Where the Director is satisfied upon evidence or submissions made to him that either, or both of, the chief executive officer or chief financial officer of the issuer is for adequate cause not available to sign a certificate in a prospectus, the Director may permit the certificate to be signed by any other responsible officer or officers of the issuer in lieu of either, or both of, the chief executive officer or chief financial officer. Idem

(5) With the consent of the Director, a promoter need not sign the certificate in a prospectus. Idem

(6) The Director may, in his discretion, require any person or company who was a promoter of the issuer within the two preceding years to sign the certificate required by subsection 1 or 2 subject to such conditions as the Director may consider proper. Certificate of promoter

(7) With the consent of the Director, a promoter may sign a certificate in a prospectus by his agent duly authorized in writing. R.S.O. 1970, c. 426, s. 52, *amended*. Idem

60.—(1) Where there is an underwriter, a prospectus shall contain a certificate in the following form, signed by the underwriter or underwriters who, with respect to the securities offered by the prospectus, are in a contractual relationship with the issuer or security holder whose securities are being offered by the prospectus: Certificate of underwriter

To the best of our knowledge, information and belief, the foregoing constitutes full, true and plain disclosure of all material facts relating to the securities offered by this prospectus as required by Part XIV of The Securities Act, 1975 and the regulations thereunder.

Idem

(2) With the consent of the Director, an underwriter may sign a certificate in a prospectus by his agent duly authorized in writing. R.S.O. 1970, c. 426, s. 53, *amended*.

Statement
of rights

61. Every prospectus shall contain a statement of the rights given to a purchaser by sections 72 and 125. R.S.O. 1970, c. 426, ss. 64 (9), 65 (8), *amended*.

Issuance
of receipt

62.—(1) Subject to subsection 2, the Director shall issue a receipt for a prospectus filed under this Part unless it appears to him that it is not in the public interest to do so.

Refusal
of receipt

(2) The Director shall not issue a receipt for a prospectus if it appears to him that,

(a) the prospectus or any document required to be filed therewith,

(i) fails to comply in any substantial respect with any of the requirements of this Part or the regulations,

(ii) contains any statement, promise, estimate or forecast that is misleading, false or deceptive, or

(iii) contains a misrepresentation;

(b) an unconscionable consideration has been paid or given or is intended to be paid or given for promotional purposes or for the acquisition of property;

(c) the proceeds from the sale of the securities to which the prospectus relates that are to be paid into the treasury of the issuer, together with other resources of the issuer, are insufficient to accomplish the purpose of the issue stated in the prospectus;

(d) having regard to the financial condition of the issuer or an officer, director, promoter, or a person or company or combination of persons or companies holding sufficient of the securities of the issuer to affect materially the control of such issuer, the issuer cannot reasonably be expected to be financially responsible in the conduct of its business;

(e) the past conduct of the issuer or an officer, director, promoter, or a person or company or combination of persons or companies holding sufficient of the securities of the issuer to affect materially the

control of such issuer affords reasonable grounds for belief that the business of the issuer will not be conducted with integrity and in the best interests of its security holders;

- (f) such escrow or pooling agreement as the Director considers necessary or advisable with respect to securities has not been entered into;
- (g) such agreement as the Director considers necessary or advisable to accomplish the objects indicated in the prospectus for the holding in trust of the proceeds payable to the issuer from the sale of the securities pending the distribution of such securities has not been entered into;
- (h) in the case of a prospectus filed by a finance company, as defined in the regulations,
 - (i) the plan of distribution of the securities offered is not acceptable,
 - (ii) the securities offered are not secured in such manner, on such terms and by such means as are required by the regulations, or
 - (iii) such finance company does not meet such financial and other requirements and conditions as are specified in the regulations; or
- (i) a person or company who has prepared or certified any part of the prospectus or is named as having prepared or certified a report or valuation used in or in connection with a prospectus is not acceptable to him.

(3) The Director shall not refuse to issue a receipt under subsection 1 or 2 without giving the person or company who filed the prospectus an opportunity to be heard. ^{Hearing} R.S.O. 1970, c. 426, s. 61 (1, 2); 1971, c. 31, s. 16, *amended*.

(4) Where it appears to the Director that a preliminary prospectus, *pro forma* prospectus, or prospectus raises a material question involving the public interest under subsection 1 or a new or novel question of interpretation under subsection 2 that might result in the Director refusing to issue a receipt under subsection 1 or 2, the Director may refer the question to the Commission for determination. ^{Referral to Commission}

Form of
question

(5) The Director shall state the question in writing setting out the facts upon which the question is based.

Filing of
question

(6) The question, together with any additional material, shall be lodged by the Director with the Secretary of the Commission, and a copy of the question shall forthwith be served by the Director upon any interested person or company.

Hearing by
Commission

(7) The Commission, after giving the parties an opportunity to be heard, shall consider and determine the question and refer the matter back to the Director for final consideration under subsections 1 and 2.

Decision of
Commission

(8) Subject to any order of the Supreme Court made under section 9, the decision of the Commission on the question is binding on the Director. *New.*

Refiling of
prospectus

63.—(1) No distribution of a security shall continue longer than twelve months from either,

- (a) the date of the issuance of the receipt for the preliminary prospectus relating to such security; or
- (b) the date of the last prospectus filed under this section,

as the case may be, which shall be the lapse date, unless a new prospectus that complies with this Part is filed and a receipt therefor is obtained from the Director. R.S.O. 1970, c. 426, s. 56; 1971, c. 31, s. 11, *amended*.

Idem

(2) A distribution may be continued for a further twelve months if,

- (a) a *pro forma* prospectus prepared in accordance with the regulations is filed not less than thirty days prior to the lapse date of the previous prospectus;
- (b) a prospectus is filed not later than ten days following the lapse date of the previous prospectus; and
- (c) a receipt for the prospectus is obtained from the Director within the twenty days following the lapse date of the previous prospectus.

Failure to
refile

(3) Subject to any extension granted under subsection 4, all trades completed in reliance upon subsection 2 after the lapse date may be cancelled at the option of the purchaser within ninety days of the purchaser's first knowledge of the

failure to comply with such conditions where any of the conditions to the continuation of a distribution under subsection 2 are not complied with.

(4) The Commission may, upon an application of a reporting issuer, extend, subject to such terms and conditions as it may impose, the times provided by subsection 2 where in its opinion it would not be prejudicial to the public interest to do so. *New.* Extension of time

64.—(1) No dealer shall engage in the distribution of a security to which section 54 or 63 is applicable until such dealer has notified the Commission in writing of his intention to engage in such distribution. Notice to Commission of distribution to public

(2) Every dealer shall forthwith notify the Commission in writing when he has ceased to engage in the distribution of a security to which section 54 or 63 is applicable. R.S.O. 1970, c. 426, s. 54, *amended.* Notice of Commission of cessation of distribution to public

65.—(1) Where a person or company proposing to make a distribution of previously issued securities of an issuer is unable to obtain from the issuer of such securities information or material that is necessary for the purpose of complying with this Part or the regulations, the Director may order the issuer of such securities to furnish to the person or company that proposes to make the distribution such information and material as the Director considers necessary for the purposes of the distribution, upon such terms and subject to such conditions as he considers proper, and all such information and material may be used by the person or company to whom it is furnished for the purpose of complying with this Part and the regulations. Orders to furnish information re distribution to public

(2) Where a person or company proposing to make a distribution of previously issued securities of an issuer is unable to obtain any or all of the signatures to the certificates required by this Act or the regulations, or otherwise to comply with this Part or the regulations, the Director may, upon being satisfied that all reasonable efforts have been made to comply with this Part and the regulations and that no person or company is likely to be prejudicially affected by such failure to comply, make such order waiving any of the provisions of this Part or the regulations as he considers advisable, upon such terms and subject to such conditions as he considers proper. R.S.O. 1970, c. 426, s. 60, *amended.* Idem

PART XV

DISTRIBUTION—GENERALLY

"waiting
period"
defined

66.—(1) In this section, "waiting period" means the interval, which shall be at least ten days, between the issuance by the Director of a receipt for a preliminary prospectus relating to the offering of a security and the issuance by him of a receipt for the prospectus.

Distribution
of material
during
waiting
period

(2) Notwithstanding section 54, but subject to Part XII, it is permissible during the waiting period,

- (a) to distribute a notice, circular, advertisement or letter to or otherwise communicate with any person or company identifying the security proposed to be issued, stating the price thereof, if then determined, the name and address of a person or company from whom purchases of the security may be made and containing such further information as may be permitted or required by the regulations, if every such notice, circular, advertisement, letter or other communication states the name and address of a person or company from whom a preliminary prospectus may be obtained;
- (b) to distribute a preliminary prospectus; and
- (c) to solicit expressions of interest from a prospective purchaser if, prior to such solicitation or forthwith after the prospective purchaser indicates an interest in purchasing the security, a copy of the preliminary prospectus is forwarded to him. R.S.O. 1970, c. 426; s. 36.

Distribution
of
preliminary
prospectus

67. Any dealer distributing a security to which section 66 applies shall, in addition to the requirements of clause *c* of subsection 2 of section 66, send a copy of the preliminary prospectus to each prospective purchaser who, without solicitation, indicates an interest in purchasing the security and requests a copy of such preliminary prospectus. R.S.O. 1970, c. 426, s. 37, *amended*.

Distribution
list

68. Any dealer distributing a security to which section 66 applies shall maintain a record of the names and addresses of all persons and companies to whom the preliminary prospectus has been forwarded. *New*.

Defective
preliminary
prospectus

69. Where it appears to the Director that a preliminary prospectus is defective in that it does not substantially comply with the requirements of this Act and the regula-

tions as to form and content, he may, without giving notice, order that the trading permitted by subsection 2 of section 66 in the security to which the preliminary prospectus relates shall cease until a revised preliminary prospectus satisfactory to the Director is filed and forwarded to each recipient of the defective preliminary prospectus according to the record maintained under section 68. R.S.O. 1970, c. 426, s. 40 (1).

70. From the date of the issuance by the Director of a receipt for a prospectus relating to a security, a person or company trading in the security in a distribution, either on his own account or on behalf of any other person or company, may distribute the prospectus, any document filed with or referred to in the prospectus and any notice, circular, advertisement or letter of the nature described in clause *a* of subsection 2 of section 66 or in the regulations, but shall not distribute any other printed or written material respecting the security that is prohibited by the regulations. R.S.O. 1970, c. 426, s. 57; 1971, c. 31, s. 12, *amended*. Material
given on
distribution

71.—(1) Where it appears to the Commission, after the filing of a prospectus under this Part and the issuance of a receipt therefor, that any of the circumstances set out in subsection 2 of section 62 exist, the Commission may order that the distribution of the securities under the prospectus shall cease. Order
to cease
trading

(2) No order shall be made under subsection 1 without a hearing unless in the opinion of the Commission the length of time required for a hearing could be prejudicial to the public interest, in which event a temporary order may be made which shall expire fifteen days from the date of the making thereof unless the hearing is commenced in which case the Commission may extend the order until the hearing is concluded. Hearing

(3) A notice of every order made under this section shall be served upon the issuer to whose securities the prospectus relates and upon every dealer who has notified the Commission of his intention to engage in the distribution of the securities, and forthwith upon the receipt of the notice, Notice

(a) distribution of the securities under prospectus by the person or company named in the order shall cease; and

(b) any receipt issued by the Director for the prospectus is revoked. R.S.O. 1970, c. 426, s. 62; 1971, c. 31, s. 17, *amended*.

Obligation
to deliver
prospectus

72.—(1) A dealer not acting as agent of the purchaser who receives an order or subscription for a security offered in a distribution to which subsection 1 of section 54 or section 63 is applicable shall, unless he has previously done so, send by prepaid mail or deliver to the purchaser the latest prospectus and any amendment to the prospectus filed either before entering into an agreement of purchase and sale resulting from the order or subscription or not later than midnight on the second day, exclusive of Saturdays, Sundays, and holidays, after entering into such agreement.

Withdrawal
from
purchase

(2) An agreement of purchase and sale referred to in subsection 1 is not binding upon the purchaser, if the dealer from whom the purchaser purchases the security receives written or telegraphic notice evidencing the intention of the purchaser not to be bound by the agreement of purchase and sale not later than midnight on the second day, exclusive of Saturdays, Sundays, and holidays, after receipt by the purchaser of the latest prospectus and any amendment to the prospectus.

Application
of subs. 2

(3) Subsection 2 does not apply if the purchaser is a registrant or if the purchaser sells or otherwise transfers beneficial ownership of the security referred to in subsection 2, otherwise than to secure indebtedness, before the expiration of the time referred to in subsection 2.

Time of
receipt

(4) For the purpose of this section, where the latest prospectus and any amendment to the prospectus is sent by prepaid mail, the latest prospectus and any amendment to the prospectus shall be deemed conclusively to have been received in the ordinary course of mail by the person or company to whom it was addressed.

Receipt of
prospectus
by agent

(5) The receipt of the latest prospectus or any amendment to the prospectus by a dealer who is acting as agent of or who thereafter commences to act as agent of the purchaser with respect to the purchase of a security referred to in subsection 1 shall, for the purpose of this section, be receipt by the purchaser as of the date on which the agent received such latest prospectus and any amendment to the prospectus.

Receipt of
notice by
agent

(6) The receipt of the notice referred to in subsection 2 by a dealer who acted as agent of the vendor with respect to the sale of the security referred to in subsection 1 shall, for the purpose of this section, be receipt by the vendor as of the date on which the agent received such notice.

(7) For the purpose of this section, a dealer shall not be considered to be acting as agent of the purchaser unless the dealer is acting solely as agent of the purchaser with respect to the purchase and sale in question and has not received and has no agreement to receive compensation from or on behalf of the vendor with respect to the purchase and sale. Dealer
as agent

(8) The onus of proving that the time for giving notice under subsection 2 has expired is upon the dealer from whom the purchaser has agreed to purchase the security. Onus of
proof
R.S.O. 1970, c. 426, s. 64; 1971, c. 31, s. 19, *amended*.

PART XVI

EXEMPTIONS FROM PROSPECTUS REQUIREMENTS

73.—(1) Subject to the regulations, sections 54 and 63 do not apply to a distribution where, Prospectus
not
required

(a) the purchaser is,

(i) a bank to which the *Bank Act* (Canada) applies or the Industrial Development Bank incorporated under the *Industrial Development Bank Act* (Canada), R.S.C. 1970,
cc. B-1, I-9

(ii) a loan corporation or trust company registered under *The Loan and Trust Corporations Act*, R.S.O. 1970,
c. 254

(iii) an insurance company licensed under *The Insurance Act*, R.S.O. 1970,
c. 224

(iv) Her Majesty in right of Canada or any province or territory of Canada, or

(v) any municipal corporation or public board or commission in Canada,

who purchases as principal;

(b) the trade is an isolated trade in a specific security by or on behalf of an issuer, for the issuer's account, where such trade is not made in the course of continued and successive transactions of a like nature, and is not made by a person or company whose usual business is trading in securities;

(c) the party purchasing as principal is a company or a person, other than an individual, and is recognized by the Commission as an exempt purchaser;

- (d) the purchaser purchases as principal, if the trade is in a security which has an aggregate acquisition cost to such purchaser of not less than \$97,000;
- (e) the trade is to a lender, pledgee, mortgagee or other encumbrancer from the holdings of any person, company or combination of persons or companies described in subparagraph iii of paragraph 12 of subsection 1 of section 1 for the purpose of giving collateral for a *bona fide* debt;
- (f) the trade is made by an issuer,
 - (i) in a security of its own issue that is distributed by it to holders of its securities as a stock dividend or other distribution out of earnings or surplus,
 - (ii) in a security whether of its own issue or not that is distributed by it to holders of its securities as incidental to a *bona fide* reorganization or winding up of such issuer or distribution of its assets for the purpose of winding up its affairs pursuant to the laws of the jurisdiction in which the issuer was incorporated, organized or continued,
 - (iii) in a right, transferable or otherwise, granted by the issuer to holders of its securities to purchase additional securities of its own issue and the issue of securities pursuant to the exercise of the right if the issuer has given the Commission written notice stating the date, amount, nature and conditions of the proposed sale, including the approximate net proceeds to be derived by the issuer on the basis of such additional securities being fully taken up and paid for, and either,
 - a. the Commission has not informed the issuer in writing within ten days of the giving of such notice that it objects to the proposed trade, or
 - b. the issuer has delivered to the Commission information relating to the securities that is satisfactory to, and accepted by, the Commission, or

- (iv) in securities of its own issue transferred or issued through the exercise of a right to purchase or convert previously granted by the issuer,

provided that, with respect to any trade referred to in subclause i or ii, no commission or other remuneration is paid or given to others in respect of such distribution except for ministerial or professional services or for services performed by a registered dealer;

- (g) the trade is made in a security of a company that is exchanged by or for the account of such company with another company or the holders of the securities of that other company in connection with,
 - (i) a statutory amalgamation or arrangement, or
 - (ii) a statutory procedure under which one company takes title to the assets of the other company which in turn loses its existence by operation of law, or under which the existing companies merge into a new company;
- (h) the trade is made in a security of a company that is exchanged by or for the account of such company with the security holders of another company in connection with a take-over bid as defined in Part XIX;
- (i) the trade is made in a security of an issuer in connection with an exempt offer as defined in Part XIX;
- (j) the trade is made by an issuer in a security of its own issue as consideration for a portion or all of the assets of any person or company, if the fair value of the assets so purchased is not less than \$100,000;
- (k) the trade is made by an issuer in a security of its own issue in consideration of mining claims where the vendor enters into such escrow or pooling agreement as the Director considers necessary;
- (l) the trade is made by an issuer in the securities of its own issue with its employees or the employees of an affiliate who are not induced to purchase by expectation of employment or continued employment;

(m) the trade is made between an issuer in securities of its own issue and not more than twenty-five purchasers or is made between such purchasers if each of the following requirements is satisfied,

(i) each such purchaser purchases as principal,

(ii) each such purchaser,

a. is an investor who, by virtue of his net worth and investment experience or by virtue of consultation with or advice from a registered adviser, is able to evaluate the prospective investment on the basis of information respecting the investment presented to him by the issuer or has access to substantially the same information concerning the issuer that the filing of a prospectus under this Act would provide, or

b. is a senior officer or director of the issuer or his spouse, parent, brother, sister or child,

(iii) the offer and sale of the securities are not accompanied by an advertisement and no selling or promotional expenses have been paid or incurred in connection therewith, except for professional services or for services performed by a registered dealer,

(iv) the solicitation in respect of the securities has not been made to more than fifty prospective purchasers, and

(v) there are not more than twenty-five beneficial owners of securities as a result of trades pursuant to this exemption;

(n) the trade is made from one registered dealer to another registered dealer where the registered dealer making the purchase is acting as principal; or

(o) the trade is made between a person or company and an underwriter acting as purchaser or between or among underwriters.

(2) For the purpose of subsection 1, a trust company registered under *The Loan and Trust Corporations Act* shall

be deemed to be acting as principal when it trades as trustee for accounts fully managed by it.

(3) Where a trade has been made under clause *a, b, c, d, j*, ^{Report} *m* or *n* of subsection 1, the vendor shall within ten days file a report prepared and executed in accordance with the regulations.

(4) The first trade in securities acquired pursuant to an exemption contained in clause *a, b, c, d, j, k, m* or *n* of subsection 1, other than a further trade exempted by subsection 1, is a distribution, unless, ^{First trades deemed distribution}

(a) the issuer of the security is a reporting issuer and is not in default of any requirement of this Act or the regulations;

(b) (i) such securities are listed and posted for trading on a stock exchange recognized for this purpose by the Commission and comply with the requirements of either clause *m* or *n* of subsection 1 of section 383 of *The Insurance Act*, and have been held at least six months from the date of the initial exempt trade or the date the issuer became a reporting issuer, whichever is the later, or ^{R.S.O. 1970, c. 224}

(ii) such securities are bonds, debentures or other evidences of indebtedness issued or guaranteed by an issuer and comply with the requirements of clause *k* of subsection 1 of section 383 of *The Insurance Act* and have been held at least six months from the date of the initial exempt trade or the date the issuer became a reporting issuer, whichever is the later, or

(iii) such securities are listed and posted for trading on a stock exchange recognized for this purpose by the Commission or are bonds, debentures or other evidences of indebtedness issued or guaranteed by the reporting issuer whose securities are so listed, and have been held at least one year from the date of the initial exempt trade or the date the issuer became a reporting issuer, whichever is later, or

(iv) such securities have been held at least eighteen months from the date of the initial exempt trade or the date the issuer became a reporting issuer, whichever is later; and

- (c) the vendor files a report within ten days prepared and executed in accordance with the regulations,

provided that no unusual effort is made to prepare the market or to create a demand for such securities and no extraordinary commission or consideration is paid in respect of such trade.

Idem

(5) The first trade in securities acquired under an exemption contained in clause *f, g, h, i* or *l* of subsection 1, other than a further trade exempted by subsection 1, is a distribution unless,

- (a) the issuer of the securities is a reporting issuer and has been a reporting issuer for at least twelve months and is not in default of any requirement of this Act or the regulations;
- (b) the issuer has made disclosure of its exempt trade; and
- (c) no unusual effort is made to prepare the market or to create a demand for the securities and no extraordinary commission or consideration is paid in respect of such trade.

Idem

(6) The first trade in securities purchased under an exemption contained in clause *o* of subsection 1, other than a further trade exempted by subsection 1, is a distribution.

Prospectus
not
required

(7) Sections 54 and 63 do not apply to a distribution within the meaning of subparagraph iii of paragraph 12 of subsection 1 of section 1 or by a lender, pledgee, mortgagee or other incumbrancer for the purpose of liquidating a *bona fide* debt by selling or offering for sale a security pledged, mortgaged or otherwise encumbered in good faith as collateral for the debt in accordance with clause *e* of subsection 1, if,

- (a) the distribution is exempted by subsection 1 of this section; or
- (b) the issuer of the security is a reporting issuer and has been a reporting issuer for at least eighteen months and is not in default of any requirement of this Act or the regulations and the seller,
 - (i) files with the Commission and any stock exchange recognized by the Commission for this purpose on which the securities are listed at least seven days and not more than fourteen days prior to the proposed trade,

- a. a notice of intention to sell in the form prescribed by the regulations disclosing particulars of the control position known to him, the number of securities to be sold and the method of distribution, and
- b. a declaration signed by each seller as at a date not more than twenty-four hours prior to its filing and prepared and executed in accordance with the regulations and certified as follows:

"The seller for whose account the securities to which this certificate relates are to be sold hereby represents that he has no knowledge of any material change which has occurred in the affairs of the issuer of the securities which has not been generally disclosed and reported to the Commission, nor has he any knowledge of any other material adverse information in regard to the current and prospective operations of the issuer which have not been generally disclosed",

and,

- (ii) files within three days after the completion of any trade a report of the trade in the form prescribed under Part XX,

provided that the notice required to be filed under sub-subclause a of subclause i and the declaration required to be filed under sub-subclause b of subclause i shall be renewed and filed at the end of sixty days after the original date of filing and thereafter at the end of each twenty-eight day period so long as any of the securities specified under the original notice have not been sold or until notice has been filed that the securities so specified or any part thereof are no longer for sale; and

- (c) no unusual effort is made to prepare the market or to create a demand for the securities and no extraordinary commission or other consideration is paid in respect of such trade. *New.*

(8) Subject to subsection 10, for the purpose of determining whether an issuer is a reporting issuer and, if so, whether

Certificate re
reporting
issuer

the reporting issuer is not in default of any requirement of this Act or the regulations, the seller is entitled to rely on a certificate issued for this purpose in accordance with section 133.

List re
defaulting
reporting
issuers

(9) Subject to subsection 10, for the purpose of determining whether a reporting issuer is not in default of any requirement of this Act or the regulations, the seller is entitled to rely on a list of defaulting reporting issuers which shall be maintained by the Commission for public inspection in its offices during its normal business hours.

Exception

(10) No person or company who knows or ought reasonably to know that a reporting issuer is in default may rely on the certificate or on the list. *New.*

Prospectus
not
required

74.—(1) Sections 54 and 63 do not apply to a distribution of securities,

(a) referred to in subsection 2 of section 35 excepting paragraphs 16 and 17 thereof;

(b) that are listed and posted for trading on any stock exchange recognized for the purpose of this section by the Commission where such securities are distributed through the facilities of such stock exchange pursuant to the rules of such stock exchange and the requirements of the Commission, provided that a statement of material facts, which shall comply as to form and content with the regulations, is filed with and is accepted for filing by such stock exchange and the Commission;

(c) that are options to sell or purchase securities known as puts and calls or any combination thereof which provide that the holder thereof may sell to or purchase from the writer of the option a specified amount of securities at a specific price, on or prior to a specified date or the occurrence of a specified event, provided,

(i) the option has been written by a member of an exchange recognized by the Commission for this purpose or the performance under the option is guaranteed by a member of an exchange recognized by the Commission for this purpose,

(ii) the securities that are the subject of the option are listed and posted for trading on an exchange

recognized by the Commission for this purpose, and

(iii) the option is in the form from time to time prescribed by the regulations; or

(d) that are exempted by the regulations.

(2) Sections 72 and 125 apply *mutatis mutandis* to a distribution under clause *b* of subsection 1 as if sections 54 and 63 were applicable thereto, and the statement of material facts referred to in clause *b* of subsection 1 shall be deemed conclusively to be a prospectus for the purposes of sections 72 and 125. *New.* Application of ss. 72 and 125

75.—(1) The Commission may, upon the application of an interested person or company, rule that an intended trade is not subject to section 24 or 54 where it is satisfied that to do so would not be prejudicial to the public interest, and may impose such terms and conditions as are deemed necessary. 1971, c. 31, s. 14, *part, amended.* Order exempting from registration a prospectus

(2) Where doubt exists whether a distribution of any security has been concluded or is currently in progress, the Commission may determine the question and rule accordingly. Determination of whether distribution has ceased

(3) A decision of the Commission under this section is final and there is no appeal therefrom. 1971, c. 31, s. 14, *part.* Ruling final

PART XVII

CONTINUOUS DISCLOSURE

76.—(1) Subject to subsection 3, where a material change occurs in the affairs of a reporting issuer, it shall forthwith issue and file a press release authorized by a senior officer disclosing the nature and substance of such change. Publication of material change

(2) The reporting issuer shall file a report of such change in accordance with the regulations as soon as practicable and in any event within ten days of the date on which the change occurs. Report of material change

(3) Where in the opinion of the reporting issuer, the disclosure required by subsections 1 and 2 would be unduly detrimental to the interests of the reporting issuer, it shall forthwith deliver to the Commission the report required under Idem

subsection 2 marked "confidential" together with written reasons for non-disclosure.

Idem

(4) Where a report has been delivered to the Commission under subsection 3, the reporting issuer shall advise the Commission in writing where it believes the report should continue to remain confidential within ten days of the date of delivery of the initial report and every ten days thereafter until the material change is generally disclosed. *New.*

Trading
where
undisclosed
change

77. No person or company shall purchase or sell securities of a reporting issuer with knowledge of a material change in the affairs of such issuer that he or it knew or reasonably ought to have known had not been generally disclosed or inform another person or company about such material change other than in the necessary course of business before it has been so disclosed. *New.*

Interim
financial
statement

78.—(1) Every reporting issuer that is not a mutual fund shall file within sixty days of the date to which it is made up an interim financial statement,

- (a) for the three-month period that commenced on the date of incorporation, organization or continuation, as the case may be, and for each of the two subsequent three-month periods during its first financial year, if the reporting issuer has not completed a financial year; or
- (b) for the three-month period of the current financial year that commenced immediately following the last financial year and for each of the two subsequent three-month periods during the current financial year, including a comparative statement for the corresponding three-month period in the last financial year, if the reporting issuer has completed a financial year,

made up and certified as required by the regulations and in accordance with generally accepted accounting principles applied on a basis consistent with that of the preceding period, if any. R.S.O. 1970, c. 426, s. 130 (1), *amended*.

Idem

(2) Every reporting issuer that is a mutual fund shall file within sixty days of the date to which it is made up an interim financial statement,

- (a) for the six-month period that commenced on the date of incorporation, organization or continuation, if the reporting issuer has not completed a financial year; or

- (b) for the six-month period that commenced immediately after the last financial year, if the reporting issuer has completed a financial year,

made up and certified by the regulations and in accordance with generally accepted accounting principles applied on a basis consistent with that of the preceding period, if any. *New.*

79.—(1) Every reporting issuer that is not a mutual fund shall file annually within 140 days from the end of its last financial year comparative financial statements relating separately to, Comparative financial statements

- (a) the period that commenced on the date of incorporation, organization or continuation, as the case may be, and ended as of the close of the first financial year or, if the reporting issuer has completed a financial year, the last financial year, as the case may be; and

- (b) the period covered by the financial year next preceding the last financial year, if any,

made up and certified as required by the regulations and in accordance with generally accepted accounting principles applied on a basis consistent with that of the preceding period, if any. R.S.O. 1970, c. 426, s. 120 (1), *amended.*

(2) Every reporting issuer that is a mutual fund shall file annually within 140 days from the end of its last financial year financial statements relating to the period that commenced on the date of incorporation, organization or continuation and ended as of the close of its first financial year or, if the reporting issuer has completed a financial year, the last financial year made up and certified as required by the regulations and in accordance with generally accepted accounting principles applied on a basis consistent with that of the preceding period. *New.* Annual financial statements

(3) Every financial statement referred to in subsections 1 and 2 shall be accompanied by a report of the auditor of the reporting issuer prepared in accordance with the regulations. R.S.O. 1970, c. 426, s. 119 (2), *amended.* Auditor's report

(4) For the purposes of this Part, "auditor", where used in relation to the reporting issuer, includes the auditor of the reporting issuer and any other independent public accountant. *New.* "auditor" defined

Auditor's
examination

80. The auditor of a reporting issuer shall make such examinations as will enable him to make the report required by subsection 3 of section 79. R.S.O. 1970, c. 426, s. 119 (1).

Relief
against
certain
require-
ment

81. Upon the application of a reporting issuer, the Commission may, where in the opinion of the Commission to do so would not be prejudicial to the public interest, make an order on such terms and conditions as the Commission may impose,

- (a) permitting the omission from the financial statements required to be filed under this Part of,
 - (i) comparative financial statements for particular periods of time,
 - (ii) sales or gross operating revenue where the Commission is satisfied that the disclosure of such information would be unduly detrimental to the interests of the reporting issuer, or
 - (iii) basic earnings per share or fully diluted earnings per share;
- (b) where, in the opinion of the Commission, the reporting issuer is unable to comply with the requirements of the regulations relating to the preparation of a statement of changes in financial position required under this Part and the regulations, permitting the reporting issuer to file in lieu thereof an alternative financial statement containing such information, if any, as the Commission considers appropriate;
- (c) exempting, in whole or in part, the reporting issuer from a requirement of this Part or the regulations relating to a requirement of this Part,
 - (i) if such requirement conflicts with a requirement of the laws of the jurisdiction under which the reporting issuer is incorporated, organized or continued, or
 - (ii) if otherwise satisfied in the circumstances of the particular case that there is adequate justification for so doing. R.S.O. 1970, c. 426, s. 132 (1), *amended*.

Filing of
information
circular

82.—(1) Where the management of a reporting issuer is required to send an information circular under clause *a* of

subsection 1 of section 87, the reporting issuer shall forthwith file a copy of such information circular certified in accordance with the regulations.

(2) In any case where subsection 1 is not applicable, ^{Idem} the reporting issuer shall file annually within 140 days from the end of its last financial year a report prepared and certified in accordance with the regulations. *New.*

83. Where the laws of the jurisdiction in which the reporting issuer was incorporated, organized or continued require the reporting issuer to file substantially the same information in that jurisdiction as is required by this Part, the reporting issuer may comply with the filing requirements of this Part by filing copies of the press release, timely disclosure report, information circular, report or financial statements and auditor's report, as the case may be, required by that jurisdiction provided such releases, reports, circulars or statements are manually signed or certified in accordance with the regulations. *New.* ^{Filing of documents filed in another jurisdiction}

84. Upon the application of a reporting issuer that has fewer than fifteen security holders whose latest address as shown on the books of the reporting issuer is in Ontario, the Commission may order, subject to such terms and conditions as it may impose, that the reporting issuer shall be deemed to have ceased to be a reporting issuer where it is satisfied that to do so would not be prejudicial to the public interest. *New.* ^{Order relieving small reporting issuer}

PART XVIII

PROXIES AND PROXY SOLICITATION

85. In this Part,

^{Interpre-}
tation

- (a) "information circular" means an information circular prepared in accordance with the regulations;
- (b) "solicit" and "solicitation" include,
 - (i) any request for a proxy whether or not accompanied by or included in a form of proxy,
 - (ii) any request to execute or not to execute a form of proxy or to revoke a proxy,

- (iii) the sending or delivery of a form of proxy or other communication to a security holder under circumstances reasonably calculated to result in the procurement, withholding or revocation of a proxy,
- (iv) the sending or delivery of a form of proxy to a security holder under section 86,

but do not include,

- (v) the sending or delivery of a form of proxy to a security holder in response to an unsolicited request made by him or on his behalf, or
- (vi) the performance by any person or company of ministerial acts or professional services on behalf of a person or company soliciting a proxy. R.S.O. 1970, c. 426, s. 101 (b, c), *amended*.

Mandatory
solicitation
of proxies

86. Subject to section 89, if the management of a reporting issuer gives or intends to give to holders of its voting securities notice of a meeting, the management shall, concurrently with or prior to giving such notice to such security holders whose latest address as shown on the books of the reporting issuer is in Ontario, send by prepaid mail to each such security holder who is entitled to vote at such meeting, at his latest address as shown on the books of the reporting issuer, a form of proxy for use at such meeting that complies with the regulations. R.S.O. 1970, c. 426, s. 102 (1), *amended*.

Information
circular

87.—(1) Subject to subsection 2 and section 89, no person or company shall solicit proxies from holders of its voting securities whose latest address as shown on the books of the reporting issuer is in Ontario unless,

- (a) in the case of a solicitation by or on behalf of the management of a reporting issuer, an information circular, either as an appendix to or as a separate document accompanying the notice of the meeting, is sent by prepaid mail to each such security holder of the reporting issuer whose proxy is solicited at his latest address as shown on the books of the reporting issuer; or
- (b) in the case of any other solicitation, the person or company making the solicitation, concurrently with or prior thereto, delivers or sends an in-

formation circular to each such security holder whose proxy is solicited.

(2) Subsection 1 does not apply to,

Application
of subs. 1

- (a) any solicitation, otherwise than by or on behalf of the management of a reporting issuer, where the total number of security holders whose proxies are solicited is not more than fifteen, two or more persons or companies who are the joint registered owners of one or more securities being counted as one security holder;
- (b) any solicitation by a person or company made under section 49; or
- (c) any solicitation by a person or company in respect of securities of which he is the beneficial owner. R.S.O. 1970, c. 426, s. 103 (1, 2), *amended*.

88. The chairman at a meeting has the right not to conduct a vote by way of ballot on any matter or group of matters in connection with which the form of proxy has provided a means whereby the person or company whose proxy is solicited may specify how such person or company wishes the securities registered in his name to be voted unless,

Voting
where
proxies

- (a) a poll is demanded by any security holder present at the meeting in person or represented thereat by proxy; or
- (b) proxies requiring that the securities represented thereby be voted against what would otherwise be the decision of the meeting in relation to such matters or group of matters total more than 5 per cent of all the voting rights attached to all the securities entitled to be voted and be represented at the meeting. R.S.O. 1970, c. 426, s. 106, *amended*.

89.—(1) Where a reporting issuer is complying with the requirements of the laws of the jurisdiction under which it is incorporated, organized or continued and the requirements are substantially similar to the requirements of this Part, the requirements of this Part do not apply.

Compliance
with laws
of other
jurisdiction

(2) Subject to subsection 1, upon the application of any interested person or company, the Commission may,

Exemption
by order

- (a) if a requirement of this Part conflicts with a requirement of the laws of the jurisdiction under which the reporting issuer is incorporated, organized or continued; or
- (b) if otherwise satisfied in the circumstances of the particular case that there is adequate justification for so doing,

make an order on such terms and conditions as seem to the Commission just and expedient exempting, in whole or in part, a person or company from the requirements of this Part. *New.*

PART XIX

TAKE-OVER BIDS

Interpre-
tation

90. In this Part,

- (a) "day" means a clear day and a period of days shall be deemed to commence the day following the event which began the period and shall be deemed to terminate on midnight of the last day of the period except that if the last day of the period falls on a Sunday or holiday the period shall terminate on midnight of the day next following that is not a Sunday or holiday;
- (b) "directors' circular" means a directors' circular prepared in accordance with the regulations;
- (c) "exempt offer" means,
 - (i) purchases of voting securities of a company by a person or company through the facilities of a stock exchange or in the over-the-counter market whether or not the purchaser has, or will have, over 20 per cent of the outstanding voting securities of such company provided that such purchases do not exceed 5 per cent of the outstanding voting securities of such company in any one year, and
 - (ii) an offer to purchase shares in a private company;
- (d) "offeree" means a person or company to whom a take-over bid is made and whose latest address

as shown on the books of the offeree company is in Ontario;

- (e) "offeree company" means a company whose securities are the subject of a take-over bid;
- (f) "offeror" means a person or company other than an agent, who makes a take-over bid, and includes two or more persons or companies,
 - (i) whose take-over bids are made jointly or in concert, or
 - (ii) who intend to exercise jointly or in concert any voting rights attaching to the securities for which a take-over bid is made;
- (g) "offeror's presently-owned securities" means voting securities of an offeree company beneficially owned, directly or indirectly, on the date of a take-over bid by the offeror or an associate of the offeror;
- (h) "take-over bid" means an offer, other than an exempt offer, made to security holders the last address of any of whom as shown on the books of the offeree company is in Ontario to purchase, directly or indirectly, such number of voting securities of a company that, together with the offeror's presently-owned securities, will in the aggregate exceed 20 per cent of the outstanding voting securities of the company. R.S.O. 1970, c. 426, s. 81; 1971, c. 31, s. 22, *amended*.

91. The following provisions apply to every take-over bid: Requirements for
take-over
bid

1. The take-over bid shall be made to all security holders whose last address as shown on the books of the offeree company is in Ontario.
2. The period of time in which securities may be deposited pursuant to a take-over bid shall not be less than twenty-one days from the date thereof.
3. Any securities deposited pursuant to a take-over bid shall not be taken up and paid for by the offeror until the expiration of ten days from its date.

4. Any securities deposited pursuant to a take-over bid may be withdrawn by an offeree at any time until the expiration of ten days from its date.
5. Notice of withdrawal of any securities pursuant to paragraph 4 shall be made in writing, including telegraphic communication, by the offeree or his agent and must be actually received by the depositary.
6. Where a take-over bid is made for less than all the voting securities owned by offerees, securities deposited pursuant thereto shall not be taken up and paid for by an offeror until the expiration of twenty-one days from its date.
7. Where a take-over bid is made for less than all the voting securities owned by offerees, the period of time within which securities may be deposited pursuant to the take-over bid, or any extension thereof, shall not exceed thirty-five days from the date of the take-over bid.
8. Where a take-over bid is made for less than all the voting securities owned by offerees, securities deposited pursuant to the take-over bid shall be taken up and paid for, if all the terms and conditions thereof not waived by the offeror have been complied with, within fourteen days after the last day within which securities may be deposited thereto.
9. Where a take-over bid is made for less than all the voting securities owned by offerees and where a greater number of securities is deposited pursuant thereto than the offeror is bound or willing to take up and pay for, the securities taken up by the offeror shall be taken up as nearly as may be *pro rata*, disregarding fractions, according to the number of securities deposited by each offeree.
10. Where the laws applicable to the company provide for a right of appraisal or acquisition, the offeror shall advise the offeree of his rights of appraisal and whether the offeror intends exercising any right of acquisition he may have.
11. Where the offeror intends to purchase securities in the market, his intention shall be set out in the take-over bid circular and, where the take-over bid is made for less than all of the voting securities owned by the offeree, he shall not reduce

the number of securities he is bound or willing to take up under paragraph 9 by the number of securities purchased in the market.

12. The offeror shall not attach any conditions to the offer except the right to withdraw the offer if,

- (a) the offerees fail to tender the minimum number of securities the offeror is bound and willing to take up;
- (b) any undisclosed action prior to the date of the offer, or any action subsequent to such date, of the offeree company or of the directors or senior officers of the offeree company effects a material change in the affairs of such company; or
- (c) the required approval of a governmental or regulatory authority is not obtained prior to the expiration of the offer.

13. Where the take-over bid is made for all of the voting securities owned by offerees, the offeror shall, at the expiration of thirty-five days from the making of the offer, take up and pay for the securities tendered at that time or abandon his offer.

14. Where the take-over bid is subject to the approval of a governmental or regulatory authority, the time within which the offeree is bound to take up and make payment for the securities under paragraphs 9 and 13 may be extended for a period not exceeding an additional sixty days. R.S.O. 1970, c. 426, s. 82; 1971, c. 31, s. 23, *amended*.

92.—(1) Where a take-over bid has been varied by changing any of its terms, every person or company that has been sent the take-over bid circular shall be sent notice of the variation and the date of the take-over bid shall, for the purposes of section 91, be deemed to be the date of the variation. Notice of variation in take-over bid

(2) A notice of variation shall advise the offeree of his rights under paragraph 4 of section 91. *New.* Idem

(3) Where the terms of a take-over bid are varied before the expiration thereof by increasing the consideration offered for the voting securities of an offeree company, the offeror shall pay such increased consideration to each offeree whose Variation of terms of take-over bid

securities are taken up and paid for pursuant to the take-over bid whether or not such securities have been taken up by the offeror before the variation of the take-over bid.

Idem

(4) Where a take-over bid for all the voting securities owned by offerees is converted, by amendments or otherwise, to a bid for less than all the voting securities owned by offerees, the take-over bid shall be deemed conclusively to be for less than all the voting securities owned by offerees. R.S.O. 1970, c. 426, s. 84, *amended*.

Sending
by mail

93. A take-over bid or a varied take-over bid shall be sent by prepaid mail to the offerees and shall be deemed conclusively to have been dated as of the date on which it was mailed. R.S.O. 1970, c. 426, s. 83, *amended*.

Consideration
in cash

94. Where a take-over bid provides that the consideration for the securities deposited pursuant thereto is to be paid in cash or partly in cash, the offeror shall make adequate arrangements to ensure that the required funds are available to effect payment in full for all securities owned by offerees that the offeror has offered to purchase pursuant to the take-over bid. R.S.O. 1970, c. 426, s. 85.

Circular

95.—(1) A take-over bid circular shall form part of or accompany a take-over bid.

Content

(2) Every take-over bid circular shall be in the form and shall contain the information prescribed by this Part and the regulations.

Consideration
in securities

(3) Where a take-over bid provides that the consideration for the securities of the offeree company is to be, in whole or in part, securities of an issuer, the take-over bid circular shall contain the additional information prescribed by the regulations. R.S.O. 1970, c. 426, s. 86, *amended*.

Directors'
circular

96.—(1) The board of directors of an offeree company shall send a directors' circular to each offeree not later than seven days from the date of the take-over bid prepared in accordance with the regulations. R.S.O. 1970, c. 426, s. 87 (1), *amended*.

Recom-
mendation
by board

(2) The board of directors may include in a directors' circular a recommendation to accept or to reject a take-over bid if it sees fit to do so. *New*.

Recom-
mendation
by individual
director

(3) An individual director or officer may recommend to the offerees acceptance or rejection of the take-over

bid made to such offerees if the director or officer sends to each offeree with his communication a circular prepared in accordance with the regulations. R.S.O. 1970, c. 426, s. 87 (4), *amended*.

(4) Where a board of directors is considering recommending acceptance or rejection of a take-over bid, it shall, at the time of sending a director's circular, advise the offerees of this fact and shall advise them not to tender their securities until further communication is received from the directors. R.S.O. 1970, c. 426, s. 87 (2), *amended*. Advising of consideration

(5) Where the board of directors sends a communication under subsection 4, it shall communicate the recommendation or the decision not to make a recommendation to the offerees at least seven days prior to the expiry of the offer. R.S.O. 1970, c. 426, s. 87 (3), *amended*. Advising of decision of directors

(6) All communications required or permitted by this section shall be sent to each offeree by prepaid mail to his latest address as shown on the books of the offeree company. R.S.O. 1970, c. 426, s. 87 (5). Service

97.—(1) Where a take-over bid is made by or on behalf of an issuer, the contents of the take-over bid circular shall be approved and the delivery thereof authorized by the directors of the issuer. R.S.O. 1970, c. 426, s. 89 (1), *amended*. Approval of circulars

(2) Where a take-over bid is made by or on behalf of an issuer, the take-over bid circular shall contain a statement that the contents thereof have been approved and the delivery thereof authorized by the directors of the issuer. R.S.O. 1970, c. 426, s. 93. Idem

(3) The contents of a directors' circular shall be approved and the delivery thereof authorized by the directors of the offeree company. R.S.O. 1970, c. 426, s. 89 (2), *amended*. Idem

98. Upon an application by a person or company, the Commission may exempt, subject to such terms and conditions as it may impose, the person or company from any requirement of this Part where in its opinion it would not be prejudicial to the public interest to do so. R.S.O. 1970, c. 426, s. 90, *amended*. Deeming offers exempt

99. The identity of the offeror shall be disclosed in a take-over bid circular. 1971, c. 31, s. 27, *amended*. Naming of offeror

PART XX

INSIDER TRADING AND SELF-DEALING

Interpre-
tation**100.**—(1) In this Part,

- (a) “mutual fund” means a mutual fund that is a reporting issuer;
- (b) “related mutual funds” includes more than one mutual fund under common management; and
- (c) “related person or company” in relation to a mutual fund means a person in whom, or a company in which, the mutual fund, its management company and its distribution company are prohibited by the provisions of this Part from making any investment.

Idem

(2) For the purpose of this Part,

- (a) any issuer in which a mutual fund holds in excess of 10 per cent of the voting securities or in which the mutual fund and related mutual funds hold in excess of 20 per cent of the voting securities shall be deemed to be a related person or company of that mutual fund or of each of those mutual funds;
- (b) the acquisition or disposition by an insider of a put, call or other transferable option with respect to a security shall be deemed a change in the beneficial ownership of the security to which such put, call or other transferable option relates; and
- (c) for the purpose of reporting under section 101 or 102, ownership shall be deemed to pass at such time as an offer to sell is accepted by the purchaser or his agent or an offer to buy is accepted by the vendor or his agent. R.S.O. 1970, c. 426, s. 109, *amended*.

Report

101.—(1) A person or company that becomes an insider of a reporting issuer, other than a mutual fund, shall, within ten days after the end of the month in which he becomes an insider, file a report as of the day on which he became an insider disclosing whether or not he has any direct or indirect beneficial ownership of or control or direction over securities of the reporting issuer as may be required by the regulations.

(2) A person or company that has filed or is required ^{Idem} to file a report under this section or any predecessor thereof and whose direct or indirect beneficial ownership of or control or direction over securities of the reporting issuer changes from that shown or required to be shown in such report or in the latest report filed by him under this section or any predecessor thereof shall, within ten days following the end of the month in which such change takes place, if he was an insider of the reporting issuer at any time during such month, file a report of his direct or indirect beneficial ownership of or his control or direction over securities of the reporting issuer at the end of the month and the change or changes therein that occurred during said month giving such details of each transaction as may be required by the regulations. R.S.O. 1970, c. 426, s. 110 (1, 2), *amended*.

102.—(1) Where a person or company becomes the ^{Report of offeror} beneficial owner, directly or indirectly, of voting securities of a reporting issuer carrying 20 per cent or more of the voting rights attached to all voting securities for the time being outstanding, through purchases effected through an exempt offer, as defined in Part XIX, such person or company shall file a report as of the day on which he acquired such ownership within three days of acquiring such 20 per cent ownership.

(2) A person or company that is the beneficial owner, ^{Idem} directly or indirectly, of voting securities of a reporting issuer carrying 20 per cent or more of the voting rights attached to all voting securities for the time being outstanding shall, within three days of purchasing further voting securities carrying an additional 5 per cent of the voting rights, file a report as of the day on which he acquired an additional 5 per cent of the voting rights and thereafter each time he acquires a further 5 per cent.

(3) Where the facts required to be reported by this section are identical to those required under section 101, a separate report under section 101 is not required. 1971, c. 31, s. 33, *amended*.

103. No insider of a reporting issuer shall transfer or ^{Report of transfer by insider} cause to be transferred any securities of the reporting issuer into the name of an agent, nominee or custodian without delivering to the Commission a report of such transfer in accordance with the regulations except for a transfer for the purpose of giving collateral for a *bona fide* debt. *New*.

Report of
transfer
by insider

104. Where voting securities are registered in the name of a person or company other than the beneficial owner and the person or company knows or ought to know after reasonable inquiry that they are beneficially owned by an insider he shall file a report in accordance with the regulations except where the transfer is for the purpose of giving collateral for a *bona fide* debt and the insider has reported and remains the beneficial owner of the securities. *New.*

Interpre-
tation

105. For the purposes of sections 106, 107, 108, 109, 110 and 111,

- (a) "investment" means a purchase of any security of any class of securities of an issuer including bonds, debentures, notes, or other evidences of indebtedness thereof, and a loan to persons or companies but does not include an advance or loan, whether secured or unsecured, that is made by a mutual fund, its management company or its distribution company that is merely ancillary to the main business of the mutual fund, its management company or its distribution company;
- (b) a person or company or a group of persons or companies has a significant interest in an issuer, if,
 - (i) in the case of a person or company, he or it, as the case may be, owns beneficially, either directly or indirectly, more than 10 per cent, or
 - (ii) in the case of a group of persons or companies, they own beneficially, either individually or together and either directly or indirectly, more than 50 per cent,

of the outstanding shares or units of the issuer;

- (c) a person or company or a group of persons or companies is a substantial security holder of an issuer if that person or company or group of persons or companies owns beneficially, either individually or together or directly or indirectly, voting securities to which are attached more than 20 per cent of the voting rights attached to all the voting securities of the issuer for the time being outstanding, but in computing the percentage of voting rights attached to voting securities owned by an underwriter, there shall be excluded

any voting securities acquired by him as underwriter in a distribution of such securities but such exclusion ceases to have effect on completion or cessation of the distribution by him;

- (d) where a person or company or group of persons or companies owns beneficially, directly or indirectly, or pursuant to this clause is deemed to own beneficially, voting securities of an issuer, that person or company or group of persons or companies shall be deemed to own beneficially a proportion of voting securities of any other issuer that are owned beneficially, directly or indirectly, by the first mentioned issuer, which proportion shall equal the proportion of the voting securities of the first mentioned issuer that are owned beneficially, directly or indirectly, or that pursuant to this clause are deemed to be owned beneficially, by that person or company or group of persons or companies. *New.*

106.—(1) No mutual fund shall knowingly make an investment by way of loan to, Loans of mutual funds

- (a) any officer or director of the mutual fund, its management company or distribution company or an associate of any of them;
- (b) any individual, where the individual or an associate of the individual is a substantial security holder of the mutual fund, its management company or distribution company.

(2) No management company or distribution company of a mutual fund shall knowingly make an investment by way of loan to, Loans of management or distribution companies

- (a) any officer or director of the mutual fund or an associate of any of them; or
- (b) any individual, where the individual or associate of the individual is a substantial security holder of the mutual fund.

(3) No mutual fund, its management company or distribution company shall knowingly make an investment, Investments of mutual funds, etc.

- (a) in any person or company that is a substantial security holder of the mutual fund, its management company or distribution company;

- (b) in any person or company in which the mutual fund, alone or together with one or more related mutual funds, is a substantial security holder; or
- (c) in an issuer in which,

- (i) any officer or director of the mutual fund, its management company or distribution company or an associate of any of them, or
- (ii) any person or company who is a substantial security holder of the mutual fund, its management company or its distribution company,

has a significant interest.

Divesting of prohibited loans and investments

(4) No mutual fund or its management company or its distribution company shall knowingly hold an investment made after the coming into force of this Act that is an investment described in this section. *New.*

Limitation on mutual fund investment

107.—(1) Subject to subsection 2, no mutual fund shall purchase securities of any class of an issuer if after the purchase,

- (a) the holdings of the mutual fund exceed 10 per cent of the outstanding securities of that class by number or the holdings of the mutual fund and of related mutual funds exceed 20 per cent of the outstanding securities of that class by number or, in the case of debt securities maturing more than one year from the date of issue, holdings of the mutual fund exceed 10 per cent of the principal amount of the total outstanding debt securities of the issuer or the holdings of the mutual fund and of related mutual funds exceed 20 per cent out of the principal amount of the total outstanding debt securities of the issuer; or
- (b) the holdings of the mutual fund of all of the securities of the issuer exceed 10 per cent by value of the net asset value of such mutual fund.

Exception

(2) A mutual fund may purchase securities in excess of the limits in subsection 1 if the security is,

- (a) a mortgage upon real property, other than a mortgage contained in or secured by a bond, debenture or similar obligation in a trust deed or other instrument to secure bonds or debentures or similar obligations; or

- (b) negotiable promissory notes or other money market instruments maturing not more than six months from the date of issue. *New.*

108. No mutual fund or its management company or its distribution company shall knowingly enter into any contract or other arrangement that results in its being directly or indirectly liable or contingently liable in respect of any investment by way of loan to, or other investment in, a person or company to whom it is by section 106 prohibited from making a loan or in which it is prohibited from making any other investment, and for the purpose of section 106 any such contract or other arrangement shall be deemed to be a loan or an investment, as the case may be. *New.* Indirect investment

109. Upon an application of an interested person or company, the Commission may, where it is satisfied, Relieving orders

- (a) that a class of investment or a particular investment represents the business judgment of responsible persons uninfluenced by considerations other than the best interests of a mutual fund; or
- (b) that a particular investment is in fact in the best interests of a mutual fund,

order, subject to such terms and conditions as it may impose, that section 106, 107 or 108 does not apply to the class of investment, particular investment, contract or other arrangement, as the case may be. *New.*

110. Notwithstanding clause *d* of section 105, a mutual fund, its management company or its distribution company is not prohibited from making an investment in an issuer only because a person or company or a group of persons or companies that owns beneficially, directly or indirectly, or is deemed to own beneficially, voting securities of the mutual fund or its management company or its distribution company is by reason thereof deemed to own beneficially voting securities of the issuer. *New.* Exception to s. 105 (d)

111.—(1) No mutual fund shall make any investment in consequence of which a related person or company of the mutual fund will receive any fee or other compensation except fees paid pursuant to a contract which is disclosed in any preliminary prospectus or prospectus, or any amendment to either of them, that is filed by the mutual fund and is accepted by the Director. Fees on investment

Relieving
orders

(2) The Commission may, upon the application of a mutual fund and where it is satisfied that it would not be prejudicial to the public interest to do so, order, subject to such terms and conditions as it may impose, that subsection 1 does not apply to the mutual fund. *New.*

Standard of
care for
management
of mutual
fund

112.—(1) Every person or company responsible for the management of a mutual fund shall exercise the powers and discharge the duties of its office honestly, in good faith and in the best interests of the mutual fund, and in connection therewith shall exercise the degree of care, diligence and skill that a reasonably prudent person would exercise in the circumstances.

Idem

(2) For the purposes of subsection 1, a person or company is responsible for the management of a mutual fund if he has legal power or right to control the mutual fund or if in fact he is able to do so. *New.*

Filing by
management
companies

113.—(1) Every management company shall file a report prepared in accordance with the regulations of,

- (a) every transaction of purchase or sale of securities between the mutual fund and any related person or company;
- (b) every loan received by such mutual fund from, or made by such mutual fund to, any of its related persons or companies;
- (c) every purchase or sale effected by such mutual fund through any related person or company with respect to which the related person or company received a fee either from the mutual fund or from the other party to the transaction or from both; and
- (d) any transaction in which, by arrangement other than an arrangement relating to insider trading in portfolio securities, the mutual fund is a joint participant with one or more of its related persons or companies,

in respect of each mutual fund to which it provides services or advice, within thirty days after the end of the month in which it occurs.

Relieving
orders

(2) The Commission may, upon the application of the management company of a mutual fund and where it is of the opinion that it would not be prejudicial to the public interest to do so, order, subject to such terms and conditions

as it may impose, that subsection 1 does not apply to any transaction or class of transactions. *New.*

114. No person or company who has access to information concerning the investment program of a mutual fund shall purchase or sell securities of an issuer for his or its account where the portfolio securities of the mutual fund include securities of that issuer and where the information is used by the person or company for his or its direct benefit or advantage. *New.*

Trades by
mutual
fund
insiders

115. The Commission shall summarize in or as a part of a monthly periodical available to the public on payment of a reasonable fee the information contained in every report filed in compliance with this Part. R.S.O. 1970, c. 426, s. 111 (2).

Publication
of summaries
of reports

116.—(1) Where the laws of the jurisdiction in which the reporting issuer is incorporated, organized or continued require substantially the same reports in that jurisdiction as are required by this Part, the filing requirements of this Part may be complied with by filing the reports required by the laws of such jurisdiction manually signed or certified in accordance with the regulations. *New.*

Filing
in other
jurisdiction

(2) Subject to subsection 1, upon the application of an interested person or company, the Commission may,

Exemptions
by order of
Commission

- (a) if a requirement of this Part conflicts with a requirement of the laws of the jurisdiction under which the reporting issuer is incorporated, organized or continued; or
- (b) if otherwise satisfied in the circumstances of the particular case that there is adequate justification for so doing,

make an order on such terms and conditions as seem to the Commission just and expedient, exempting in whole or in part, a person or company from the requirements of this Part. R.S.O. 1970, c. 426, s. 116 (1), *amended.*

PART XXI

ENFORCEMENT

117.—(1) Every person or company that,

Offences,
general

- (a) makes a statement in any material, evidence or information submitted or given under this Act or the regulations to the Commission, its representative, the Director or to any person appointed to make

an investigation or audit under this Act that, at the time and in the light of the circumstances under which it is made, is a misrepresentation;

- (b) makes a statement in any application, release, report, preliminary prospectus, prospectus, return, financial statement, information circular, take-over bid circular or other document required to be filed or furnished under this Act or the regulations that, at the time and in the light of the circumstances under which it is made, is a misrepresentation;
- (c) contravenes this Act or the regulations; or
- (d) fails to observe or to comply with any direction, decision, ruling, order or other requirement made under this Act or the regulations,

is guilty of an offence and on summary conviction is liable, in the case of a person, other than an individual, or company, to a fine of not more than \$25,000 and, in the case of an individual, to a fine of not more than \$2,000 or to imprisonment for a term of not more than one year, or to both.

Defence

(2) No person or company is guilty of an offence under clause *a* or *b* of subsection 1 if he or it, as the case may be, did not know and in the exercise of reasonable diligence could not have known that the statement was a misrepresentation.

Directors and officers

(3) Where a company or a person other than an individual is guilty of an offence under subsection 1, every director or officer of such company or person who authorized, permitted, or acquiesced in such offence is also guilty of an offence and on summary conviction is liable to a fine of not more than \$2,000 or to imprisonment for a term of not more than one year. R.S.O. 1970, c. 426, s. 137 (1-3), *amended*.

Consent of Minister

118. No proceedings under section 117 shall be instituted except with the consent or under the direction of the Minister. R.S.O. 1970, c. 426, s. 138 (1).

Information containing more than one offence

119. An information in respect of any contravention of this Act may be for one or more offence, and no information, summons, warrant, conviction or other proceeding in any such prosecution is objectionable or insufficient by reason of the fact that it relates to two or more offences. R.S.O. 1970, c. 426, s. 139.

120.—(1) Where a provincial judge, magistrate or justice of another province or territory of Canada issues a warrant for the arrest of any person on a charge of contravening any provision of a statute of such province or territory similar to this Act, any provincial judge or justice of Ontario within whose jurisdiction that person is or is suspected to be, may, upon satisfactory proof of the handwriting of the provincial judge, magistrate or a justice who issued the warrant, make an endorsement thereon in the form prescribed by the regulations, and a warrant so endorsed is sufficient authority to the person bringing the warrant and to all other persons to whom it was originally directed and to all constables within the territorial jurisdiction of the provincial judge or justice so endorsing the warrant to execute it within that jurisdiction and to take the person arrested thereunder either out of or anywhere in Ontario and to rearrest such person anywhere in Ontario.

(2) Any constable of Ontario or of any other province or territory of Canada who is passing through Ontario having in his custody a person arrested in another province or territory under a warrant endorsed under subsection 1 is entitled to hold, take and rearrest the accused anywhere in Ontario under such warrant without proof of the warrant or the endorsement thereof. R.S.O. 1970, c. 426, s. 149.

121.—(1) Where it appears to the Commission that any person or company has failed to comply with or is violating any decision or any provision of this Act or the regulations, the Commission may, notwithstanding the imposition of any penalty in respect of such non-compliance or violation and in addition to any other rights it may have, apply to a judge of the High Court designated by the Chief Justice of the High Court for an order,

- (a) directing such person or company to comply with such decision or provision or restraining such person or company from violating such decision or provision; and
- (b) directing the directors and senior officers of such person or company to cause such person or company to comply with or to cease violating any such decision or provision,

and upon the application the judge may make such order or such other order as he thinks fit.

(2) An appeal lies to the Supreme Court from an order made under subsection 1. R.S.O. 1970, c. 426, s. 143, *amended*.

Order
to cease
trading

122.—(1) The Commission may, where in its opinion such action is in the public interest, order, subject to such terms and conditions as it may impose, that trading shall cease in respect of any securities for such period as is specified in the order. R.S.O. 1970, c. 426, s. 144 (1).

Idem

(2) The Commission may issue a cease trading order under subsection 1 notwithstanding the delivery of a report to it pursuant to subsection 3 of section 76. *New.*

Temporary
order

(3) No order shall be made under subsection 1 or 2 without a hearing unless in the opinion of the Commission the length of time required for a hearing could be prejudicial to the public interest, in which event the Commission may make a temporary order, which shall not be for longer than fifteen days from the date of the making thereof, but such order may be extended for such period as the Commission considers necessary where satisfactory information is not provided to the Commission within the fifteen day period. R.S.O. 1970, c. 426, s. 144 (2), *amended.*

Commission's
discretion to
remove
exemptions

123.—(1) The Commission may, where in its opinion such action is in the public interest, order, subject to such terms and conditions as it may impose, that any or all of the exemptions contained in sections 35, 73 and 74 do not apply to the person or company named in the order.

Temporary
order and
hearing

(2) No order shall be made under subsection 1 without a hearing unless in the opinion of the Commission the length of time required for a hearing could be prejudicial to the public interest, in which event a temporary order may be made which shall not be for longer than fifteen days from the date of the making thereof unless the hearing is commenced in which case the Commission may extend the order until the hearing is concluded.

Notice

(3) Notice of a temporary order made under subsection 2 shall be given forthwith together with the notice of the hearing under subsection 2 to every person or company that in the opinion of the Commission is directly affected thereby. R.S.O. 1970, c. 426, s. 19 (5-7), *amended.*

Limitation
period

124.—(1) No proceedings under this Part shall be commenced in a court more than one year after the facts upon which the proceedings are based first came to the knowledge of the Commission.

Idem

(2) No proceedings under this Act shall be commenced before the Commission more than two years after the facts upon which the proceedings are based first came to the

knowledge of the Commission. R.S.O. 1970, c. 426, s. 138 (2, 3), *amended*.

PART XXII

CIVIL LIABILITY

125.—(1) Where a prospectus together with any amendment to the prospectus contains a misrepresentation, a purchaser who purchases a security offered thereby shall be deemed to have relied on such misrepresentation and has a right of action for rescission or damages against,

Liability for misrepresentation in prospectus

- (a) the issuer or selling security holder;
- (b) each underwriter of the securities who is required to sign the certificate required by section 60;
- (c) every director of the issuer at the time the prospectus or the amendment to the prospectus was filed;
- (d) every person or company whose consent has been filed pursuant to a requirement of the regulations but only with respect to statements or reports that have been made by them; and
- (e) every person or company that signed the prospectus or the amendment to the prospectus other than the persons or companies included in clauses *a* to *d*.

(2) No person or company is liable under subsection 1 if he proves that the purchaser purchased the securities with knowledge of the misrepresentation. *Defence*

(3) No person or company, other than the issuer or selling security holder, is liable under subsection 1 if he proves, *Idem*

- (a) that the prospectus or the amendment to the prospectus was filed without his knowledge or consent, and that, on becoming aware of its filing, he forthwith gave reasonable general notice that it was so filed;
- (b) that, after the issue of a receipt for the prospectus and before the purchase of the securities by such purchaser, on becoming aware of any misrepresentation in the prospectus or an amendment to the prospectus he withdrew his consent thereto and gave

reasonable general notice of such withdrawal and the reason therefor;

(c) that, with respect to any part of the prospectus or the amendment to the prospectus purporting to be made on the authority of an expert or purporting to be a copy of an extract of a report or evaluation of an expert, he had no reasonable grounds to believe and did not believe that there had been a misrepresentation or that such part of the prospectus or the amendment to the prospectus did not fairly represent the statement of the expert or was not a fair copy of the extract from the report or evaluation of the expert; or

(d) that, with respect to any part of the prospectus or the amendment to the prospectus purporting to be made on his own authority as an expert or purporting to be a copy of an extract from his own report or evaluation as an expert, he had, after reasonable investigation, reasonable grounds to believe and did believe that there had been no misrepresentation or that such part of the prospectus or the amendment to the prospectus did not fairly represent his statement as an expert and on becoming aware of such use of his statement or report or evaluation he forthwith advised the Commission and gave reasonable general notice that such use had been made and that he would not be responsible for that part of the prospectus or the amendment to the prospectus.

Idem

(4) No person or company, other than the issuer, is liable under subsection 1 if he proves that, with respect to any part of the prospectus or the amendment to the prospectus not purporting to be made on the authority of an expert and not purporting to be a copy of an extract of a report or evaluation of an expert, he had, after reasonable investigation, reasonable grounds to believe and did believe that there was no misrepresentation.

Idem

(5) In determining what constitutes reasonable investigation or reasonable grounds for belief for the purposes of subsection 4, the standard of reasonableness shall be that required of a prudent man in the circumstances of the particular case.

Limitation
re under-
writers

(6) No underwriter is liable for more than the total public offering price represented by the portion of the distribution underwritten by him.

(7) In an action for damages pursuant to subsection 1, the defendant is not liable for all or any portion of such damages that he proves do not represent the depreciation in value of the security as a result of the misrepresentation relied upon. Limitation in action for damages

(8) All or any one or more of the persons or companies specified in subsection 1 are jointly and severally liable, and every person or company who becomes liable to make any payment under this section may recover a contribution from any person or company who, if sued separately, would have been liable to make the same payment. Joint and several liability

(9) In no case shall the amount recoverable under this section exceed the price at which the securities were offered to the public. Limitation re amount recoverable

(10) The right of action for rescission or damages conferred by this section is in addition to and without derogation from any other right the purchaser may have at law. R.S.O. 1970, c. 426, s. 142, *amended*. No derogation of rights

126.—(1) Where a take-over bid circular sent to the offerees of an offeree company as required by Part XIX contains a misrepresentation, every such offeree shall be deemed to have relied on such misrepresentation and has a right of action for rescission or damages against, Liability for misrepresentation in circular

(a) the offeror;

(b) every person who at the time the circular was signed was a director of the offeror; and

(c) each person who signed a certificate in a circular other than the persons included in clause b.

(2) Where a director's circular or a director's or officer's circular sent to the offerees of an offeree company as required by Part XIX contains a misrepresentation, every such offeree shall be deemed to have relied on such misrepresentation and has a right of action for damages against every director or officer who signed the circular. Idem

(3) No person or company is liable under subsection 1 or 2 if he proves that the offeree had knowledge of the misrepresentation. Defence

(4) No person or company, other than the offeror, is liable under subsection 1 or 2 if he proves, Idem

- (a) that the take-over bid circular, directors' circular or director's or officer's circular, as the case may be, was sent without his knowledge or consent and that, on becoming aware of it, he forthwith gave reasonable general notice that it was so sent;
- (b) that, after the sending of the take-over bid circular, directors' circular or director's or officer's circular, as the case may be, on becoming aware of any misrepresentation in the take-over bid circular, directors' circular or director's or officer's circular, he withdrew his consent thereto and gave reasonable general notice of such withdrawal and the reason therefor;
- (c) that, with respect to every misrepresentation, he had, after reasonable investigation, reasonable grounds to believe and did believe the statement was true and that there was no omission to state a material fact;
- (d) that, with respect to any part of the circular purporting to be a copy of an extract from a report, opinion, or statement of an expert, he had no reasonable grounds to believe and did not believe that there had been a misrepresentation or that such part of the circular did not fairly represent the report, opinion, or statement of the expert or was not a fair copy of an extract from the report, opinion or statement of the expert; or
- (e) that, with respect to any part of the circular purporting to be made on his own authority as an expert or purporting to be a copy of an extract from his own report, opinion or statement as an expert, he had, after reasonable investigation, reasonable grounds to believe and did believe that there had been no misrepresentation, or that such part of the circular did not fairly represent his report, opinion or statement as an expert or was not a fair copy of or extract from his report, opinion or statement, and on becoming aware of such use of his report, opinion or statement, he forthwith advised the Commission and gave reasonable general notice that such use had been made and that he would not be responsible for that part of the circular.

No
derogation
of rights

(5) The right of action for rescission or damages conferred by this section is in addition to and without derogation from any other right the offeree may have at law. 1971, c. 31, ss. 29, 45, *amended*.

127. A person or company that trades in a security in violation of section 54, 66, 72, subsection 4, 5 or 7 of section 73 or section 95 is liable to his purchaser or offeree for rescission or damages. R.S.O. 1970, c. 426, s. 65; 1971, c. 31, s. 20, *amended*. Liability for unlawful trade

128.—(1) Every person or company that sells or purchases the securities of a reporting issuer with knowledge of a material change with respect to such issuer that has not been generally disclosed is liable to compensate the purchaser or vendor of such securities for damages as a result of such trade unless, Liability where material change undisclosed

- (a) such person or company has reasonable grounds to believe that such material change has been generally disclosed; or
- (b) such material change was known or ought reasonably to have been known to the purchaser or vendor.

(2) Any person or company who has access to information concerning the investment program of a mutual fund that is a reporting issuer and uses that information for his or its direct benefit or advantage to purchase or sell securities of an issuer for his or its account where the portfolio securities of the mutual fund include securities of that issuer is accountable to the mutual fund for any benefit or advantage received or receivable as a result of such purchase or sale. Idem

(3) Every person or company referred to in subsection 1 that is also an insider of the reporting issuer, or an associate or affiliate of such insider, is, in addition to the liability imposed by subsection 1, accountable to such issuer for any benefit or advantage received or receivable by such insider or associate or affiliate. R.S.O. 1970, c. 426, s. 65; 1971, c. 31, s. 20, *amended*. Accountability for gain

129.—(1) Upon application by the Commission or by any person or company that was at the time of a transaction referred to in subsection 1 of section 128 or is at the time of the application a security holder of the reporting issuer, a judge of the High Court designated by the Chief Justice of the High Court may, if satisfied that, Action by Commission on behalf of issuer

- (a) the Commission or such person or company has reasonable grounds for believing that the reporting issuer has a cause of action under subsection 3 of section 128; and
- (b) either,

- (i) the reporting issuer has refused or failed to commence an action under section 128 within sixty days after receipt of a written request from the Commission or such person or company so to do, or
- (ii) the reporting issuer has failed to prosecute diligently an action commenced by it under section 128,

make an order, upon such terms as to security for costs and otherwise as to the Judge seems fit, requiring the Commission or authorizing such person or company or the Commission to commence or continue an action in the name of and on behalf of the reporting issuer to enforce the liability created by subsection 3 of section 128.

Action by
Commission
on behalf
of mutual
fund

(2) Upon the application by the Commission or any person or company that was at the time of a transaction referred to in subsection 2 of section 128 or is at the time of the application a security holder of the mutual fund, a judge of the High Court designated by the Chief Justice of the High Court may, if satisfied that,

- (a) the Commission or such person or company has reasonable grounds for believing that the mutual fund has a cause of action under subsection 2 of section 128; and
- (b) the mutual fund has either,
 - (i) refused or failed to commence an action under subsection 2 of section 128 within sixty days after receipt of a written request from the Commission or such person or company so to do, or
 - (ii) failed to prosecute diligently an action commenced by it under subsection 2 of section 128,

make an order, upon terms as to security for costs or otherwise as to the judge seems fit, requiring the Commission or authorizing such person or company or the Commission to commence and prosecute or to continue an action in the name of and on behalf of the mutual fund to enforce the liability created by subsection 2 of section 128.

Costs

(3) Where an action under subsection 2 or 3 of section 128 is,

- (a) commenced;
- (b) commenced and prosecuted; or
- (c) continued,

by a board of directors of a reporting issuer, the trial judge or a judge of the High Court designated by the Chief Justice of the High Court may order that the costs properly incurred by such board of directors in commencing, commencing and prosecuting or continuing the action, as the case may be, shall be paid by the reporting issuer, if he is satisfied that the action was *prima facie* in the best interests of the reporting issuer and the security holders thereof.

(4) Where an action under subsection 2 or 3 of section 128 is,

Action by
Commission
on behalf
of security
holder of the
reporting
issuer

- (a) commenced;
- (b) commenced and prosecuted; or
- (c) continued,

by a person or company who is a security holder of the reporting issuer, the trial judge of the High Court designated by the Chief Justice of the High Court may order that the costs properly incurred by such person or company in commencing, commencing and prosecuting or continuing the action, as the case may be, shall be paid by the reporting issuer, if he is satisfied that,

- (d) the reporting issuer failed to commence the action or had commenced it but had failed to prosecute it diligently; and
- (e) the continuance of the action was *prima facie* in the best interests of the reporting issuer and the security holders thereof.

(5) Where an action under subsection 2 or 3 of section 128 is, *Idem*

- (a) commenced;
- (b) commenced and prosecuted; or
- (c) continued,

by the Commission, the trial judge or a judge of the High Court designated by the Chief Justice of the High Court

shall order the reporting issuer to pay all costs properly incurred by the Commission in commencing, commencing and prosecuting or continuing the action, as the case may be.

Idem

(6) In determining whether an action or its continuance is *prima facie* in the best interests of a reporting issuer and the security holders thereof, the judge shall consider the relationship between the potential benefit to be derived from the action by the reporting issuer and the security holders thereof and the cost involved in the prosecution of the action.

Notice of application

(7) Notice of every application under subsection 1 or 2 shall be given to the Commission, the reporting issuer, and the mutual fund, as the case may be, and each of them may appear and be heard thereon.

Order to co-operate

(8) Every order made under subsection 1 or 2 requiring or authorizing the Commission to commence and prosecute or continue an action shall provide that the reporting issuer or mutual fund, as the case may be, shall co-operate fully with the Commission in the commencement and prosecution or continuation of the action, and shall make available to the Commission all books, records, documents and other material or information known to the reporting issuer or mutual fund or reasonably ascertainable by the reporting issuer or mutual fund relevant to such action.

Appeal

(9) An appeal lies to the Supreme Court from any order made under this section. *New.*

Rescission of contract

130.—(1) If subsection 1 of section 39 applies to a contract and such subsection is not complied with, a person or company that has entered into such contract is entitled to rescission thereof by mailing or delivering written notice of rescission to the registered dealer within sixty days of the date of the delivery of the security to or by such person or company, as the case may be, but, in the case of a purchase by such person or company, only if he is still the owner of the security purchased.

Idem

(2) If clause *c* of subsection 1 of section 36 applies to a contract and a registered dealer has failed to comply with such subsection by not disclosing that he acted as principal, a person or company that has entered into such contract is entitled to rescission thereof by mailing or delivering written notice of rescission to the registered dealer within seven days of the date of the delivery of the written confirmation of the contract. R.S.O. 1970, c. 426, s. 71 (1, 2), *amended.*

(3) For the purpose of subsection 2, a confirmation sent by prepaid mail shall be deemed conclusively to have been delivered to the person or company to whom it was addressed in the ordinary course of mail. *New.* Service

(4) In an action respecting a rescission to which this section applies, the onus of proving compliance with section 36 or 39 is upon the registered dealer. Onus

(5) No action respecting a rescission shall be commenced under this section after the expiration of a period of ninety days from the date of the mailing or delivering the notice under subsection 1 or 2. R.S.O. 1970, c. 426, s. 71 (3, 4), *amended.* Limitation period

131.—(1) Every purchaser of a security of a mutual fund may, where the amount of such purchase does not exceed the sum of \$50,000, rescind the purchase by notice given to the registered dealer from whom the purchase was made within forty-eight hours after receipt of the confirmation for a lump sum purchase or within sixty days after receipt of the confirmation for the initial payment under a contractual plan. Rescission of purchase of mutual fund security

(2) The right to rescind a purchase made under a contractual plan may be exercised only with respect to payments scheduled to be made within the time specified in subsection 1 for rescinding a purchase made under a contractual plan. Idem

(3) The notice mentioned in subsection 1 shall be in writing, and may be given by prepaid mail, telegram or other means. Notice

(4) A confirmation sent by prepaid mail shall be deemed conclusively to have been received in the ordinary course of mail by the person or company to whom it was addressed. Service

(5) Every registered dealer from whom the purchase was made shall reimburse the purchaser who has exercised his right of rescission in accordance with this section for the amount of sales charges and fees relevant to the investment of the purchaser in the mutual fund in respect to the shares or units of which the notice of exercise of the right of rescission was given. *New.* Reimbursement

132. Unless otherwise provided in this Act, no action shall be commenced to enforce a right created by this Part more than three years after the date of the transaction that gave rise to the liability. *New.* Limitation period for actions

PART XXIII

GENERAL PROVISIONS

Admissi-
bility in
evidence of
certified
statements

133. A statement as to,

- (a) the registration or non-registration of any person or company;
- (b) the filing or non-filing of any document or material required or permitted to be filed;
- (c) any other matter pertaining to such registration, non-registration, filing or non-filing, or to any such person, company, document or material; or
- (d) the date the facts upon which any proceedings are to be based first came to the knowledge of the Commission,

purporting to be certified by the Commission or a member thereof or by the Director is, without proof of the office or signature of the person certifying, admissible in evidence, so far as relevant, for all purposes in any action, proceeding or prosecution. R.S.O. 1970, c. 426, s. 148, *amended*.

Material
available
for
inspection

134. The Commission shall make all material filed under this Act or the regulations available for public inspection during its normal business hours. *New*.

Immunity of
Commission
and officers

135.—(1) No action or other proceeding for damages shall be instituted against the Commission or any member thereof, or any officer, servant or agent of the Commission for any act done in good faith in the performance or intended performance of any duty or in the exercise or the intended exercise of any power under this Act or a regulation, or for any neglect or default in the performance or exercise in good faith of such duty or power. R.S.O. 1970, c. 426, s. 145 (1), *amended*.

Immunity
re intended
compliance

(2) No person or company has any rights or remedies and no proceedings lie or shall be brought against any person or company for any act or omission done or omitted in compliance or intended compliance with any requirement, order or direction made or given under this Act or the regulations. *New*.

Regulations

136. The Lieutenant Governor in Council may make regulations,

1. prescribing categories for persons and companies and the manner of allocating persons and companies to categories, and prescribing the form and content of prospectuses, preliminary prospectuses, *pro forma* prospectuses and statements of material facts to be filed by, and financial conditions applicable to, persons and companies in accordance with their categories;
2. prescribing the form and content of financial statements and interim financial statements required to be filed under this Act;
3. prescribing requirements respecting applications for registration and renewal of registration, and providing for the expiration of registrations;
4. classifying registrants into categories and prescribing the terms and conditions of registration of registrants in each category but no registrant shall be included in a category designated as,
 - i. investment dealer, unless he is a member of the Ontario District of the Investment Dealers' Association of Canada,
 - ii. broker, unless he is a member of a stock exchange in Ontario recognized by the Commission,
 - iii. broker-dealer, unless he is a member of the Broker-Dealers' Association of Ontario;
5. regulating the listing and trading of securities and records relating thereto;
6. governing the furnishing of information to the public or to the Commission by a registrant in connection with securities or trades therein;
7. regulating the trading of securities other than on a stock exchange recognized by the Commission;
8. governing the keeping of accounts and records, the preparation and filing of financial statements of the affairs of the security issuers and the audit requirements with respect thereto;
9. respecting fees payable by an issuer to a management company as consideration for investment

advice, alone or together with administrative or management services, provided by the management company to the mutual fund;

10. respecting sales charges imposed by a distribution company or contractual plan service company under a contractual plan on purchasers of shares or units of a mutual fund, and commissions to be paid to salesmen of shares or units of a mutual fund;
11. designating any person or company or any class of persons or companies that shall not be required to obtain registration as an adviser;
12. prescribing the fees payable to the Commission including fees for filing, fees upon applications for registration, fees in respect of audits made by the Commission and other fees in connection with the administration of this Act and the regulations;
13. prescribing the documents, certificates, reports, releases, statements, agreements and other information and the form, content and other particulars relating thereto that are required to be filed, furnished or delivered under this Act and the regulations;
14. prescribing the practice and procedure of investigations under sections 11 and 13;
15. prescribing the forms for use under this Act and the regulations;
16. prescribing trades or securities, in addition to the trades and securities referred to in section 35 in respect of which registration shall not be required;
17. prescribing trades or securities, referred to in section 35 in respect of which there shall cease to be exemption from registration;
18. prescribing trades or securities, in addition to the trades and securities referred to in sections 73 and 74, in respect of which section 54 does not apply;
19. prescribing terms and conditions that shall be contained in an escrow or pooling agreement with respect to securities issued for a consideration other than cash;

20. prescribing the practice and procedure by which the Commission recognizes exempt purchasers under paragraph 4 of subsection 1 of section 35;
21. prescribing the information required or permitted to be distributed under subsection 2 of section 66;
22. respecting the matters referred to in clause *h* of subsection 2 of section 62, and, without limiting the generality of the foregoing, pertaining to requirements as to paid-up capital and surplus, liquidity of assets, ratios of debt to paid-up capital and surplus, audit procedures, the furnishing of interim financial statements and the provisions of trust indentures and the qualifications, rights, duties and obligations of trustees thereunder;
23. respecting the content and distribution of written, printed or visual material and advertising that may be distributed or used by a person or company with respect to a security whether in the course of distribution or otherwise;
24. prescribing the form and content of the reports to be filed under Part XX;
25. respecting any other matter necessary or advisable to carry out effectively the intent and purpose of Part XX;
26. prescribing the form and content of a take-over bid circular, directors' circular and a director's or officer's circular required by Part XIX;
27. prescribing a penalty for the early redemption of shares or units of a mutual fund;
28. prescribing the form and content of proxies, information circulars and reports required by Parts XVII and XVIII;
29. permitting the Commission or the Director to exempt any person or company from the provisions of the regulations or vary the provisions as they apply to any person or company. R.S.O. 1970, c. 426, s. 147; 1971, c. 31, s. 46, *amended*.

137. The Commission may, where in its opinion to do so would not be prejudicial to the public interest, make an order on such terms and conditions as it may impose revoking

Commission's
discretion to
revoke or
vary its
decision

or varying any decisions made by it under the Act or the regulations. *New.*

Continuation
of
registration

138. Every registration made and receipt for a prospectus issued under *The Securities Act*, being chapter 426 of the Revised Statutes of Ontario, 1970 and in effect immediately before this Act comes into force, continues in the same manner as if made or issued under this Act. *New.*

Repeal

139. The following are repealed:

1. *The Securities Act*, being chapter 426 of the Revised Statutes of Ontario, 1970.
2. *The Securities Amendment Act, 1971*, being chapter 31.
3. *The Securities Amendment Act, 1973*, being chapter 11.
4. Section 55 of *The Government Reorganization Act, 1972*, being chapter 1.

140. This Act comes into force on a day to be named by proclamation of the Lieutenant Governor.

Short title

141. This Act may be cited as *The Securities Act, 1975*.

1st Reading

May 30th, 1975

2nd Reading

3rd Reading

THE HON. S. B. HANDLEMAN
Minister of Consumer and
Commercial Relations

(Government Bill)

5TH SESSION, 29TH LEGISLATURE, ONTARIO
24 ELIZABETH II, 1975

An Act to amend The Business Corporations Act

THE HON. S. B. HANDLEMAN
Minister of Consumer and Commercial Relations

EXPLANATORY NOTE

This Bill is complementary to a Bill to enact *The Securities Act, 1975*.

The provisions respecting insider trading and reporting are contained in *The Securities Act, 1975* and deleted from *The Business Corporations Act*. Similarly the provisions for the contents of financial statements for corporations that are offering their securities to the public are deleted and provided for in *The Securities Act, 1975*. Other changes are for the purpose of co-ordinating *The Business Corporations Act* with the new *Securities Act, 1975*.

An Act to amend The Business Corporations Act

HER MAJESTY, by and with the advice and consent of the Legislative Assembly of the Province of Ontario, enacts as follows:

- 1.—(1) Paragraph 3 of subsection 1 of section 1 of *The Business Corporations Act*, being chapter 53 of the Revised Statutes of Ontario, 1970, is repealed. s. 1 (1),
par. 3,
repealed
- (2) Paragraph 15 of subsection 1 of the said section 1 is repealed and the following substituted therefor: s. 1 (1),
par. 15,
re-enacted
 15. "individual" means a natural person, but does not include a partnership, unincorporated association, unincorporated syndicate, unincorporated organization, trust, or a natural person in his capacity as trustee, executor, administrator or other legal personal representative.
- (3) Paragraph 19 of subsection 1 of the said section 1, as amended by the Statutes of Ontario, 1972, chapter 138, section 1, is repealed and the following substituted therefor: s. 1 (1),
par. 19,
re-enacted
 19. "officer" means the chairman, any vice-chairman of the board of directors, the president, any vice-president, the secretary, the assistant secretary, the treasurer, the assistant treasurer and the general manager of a corporation, and any other person designated an officer of a corporation by by-law or by resolution of the directors or any other individual who performs functions for a corporation similar to those normally performed by an individual occupying any such office.
- (4) Paragraph 23 of subsection 1 of the said section 1 is repealed. s. 1 (1),
par. 23,
repealed

s. 1 (1),
par. 25,
re-enacted

- (5) Paragraph 25 of subsection 1 of the said section 1 is repealed and the following substituted therefor:

25. "senior officer" means,

- i. the chairman or a vice-chairman of the board of directors, the president, a vice-president, the secretary, the treasurer or the general manager of a corporation or any other individual who performs functions for a corporation similar to those normally performed by an individual occupying any such office, and
- ii. each of the five highest paid employees of a corporation, including any individual referred to in subparagraph i.

s. 1 (6),
repealed

- (6) Subsection 6 of the said section 1 is repealed.

s. 1 (9) (b),
re-enacted

- (7) Clause *b* of subsection 9 of the said section 1, as re-enacted by the Statutes of Ontario, 1972, chapter 138, section 1, is repealed and the following substituted therefor:

- (b) any of its securities have been at any time since the 1st day of May, 1967, listed and posted for trading on any stock exchange in Ontario recognized by the Commission, regardless of when such listing and posting for trading commenced,

s. 41,
re-enacted

2. Section 41 of the said Act, as re-enacted by the Statutes of Ontario, 1972, chapter 138, section 14, is repealed and the following substituted therefor:

Corporation
insider re
purchase and
resale of
own shares

1975, c....

41. Where a corporation that is offering its securities to the public purchases its issued common shares under subsection 2 of section 39, accepts a donation of any of its shares under section 43, or resells them, the corporation shall be deemed to be an insider as defined in *The Securities Act, 1975* in respect of such purchase or resale and the provisions of Part XX of that Act apply.

s. 118 (2) (b),
re-enacted

3. Clause *b* of subsection 2 of section 118 of the said Act is repealed and the following substituted therefor:

- (b) any solicitation by a person made under section 49 of *The Securities Act, 1975*; and

1975, c. ...

4. Section 148, as amended by the Statutes of Ontario, 1971, chapter 26, section 23, and sections 149, 150, 151 and 152 of the said Act are repealed. ss. 148-152,
repealed

5.—(1) Clause *a* of subsection 1 of section 172 of the said Act is amended by inserting after “incorporation” in the third line “reorganization or continuation, as the case may be” and by striking out “completed” in the seventh line. s. 172 (1) (a),
amended

(2) Clause *b* of subsection 1 of the said section 172 is repealed and the following substituted therefor: s. 172 (1) (b),
re-enacted

(b) in the case of a corporation that is offering its securities to the public, the financial statement required to be filed under *The Securities Act, 1975* and the regulations thereunder relating separately to, 1975, c....

(i) the period that commenced on the date of incorporation, reorganization or continuation, as the case may be, and ended not more than six months before the annual meeting or, if the corporation has completed a financial year, that commenced immediately after the end of the last financial year and ended not more than six months before the annual meeting, as the case may be, and

(ii) the period covered by the financial year next preceding the last financial year, if any.

(3) Subsection 2 of the said section 172 is repealed and the following substituted therefor: s. 172 (2),
re-enacted

(2) It is not necessary to designate the statements referred to in clause *a* of subsection 1 as the statement of profit and loss, statement of surplus and balance sheet. Designation
of state-
ments

6.—(1) Clause *a*, and clauses *k* and *l* as enacted by the Statutes of Ontario, 1971, chapter 26, section 26 and amended by 1972, chapter 138, section 50, of subsection 1 of section 173 of the said Act are repealed. s. 173 (1)
(a, k, l),
repealed

(2) Subsection 2 of the said section 173, as amended by the Statutes of Ontario, 1972, chapter 138, section 50, is further amended by striking out “*h*, *k* and *l*” in the amendment of 1972 and inserting in lieu thereof “and *h*”. s. 173 (2),
amended

(3) Subsections 3 and 4 of the said section 173 are repealed. s. 173 (3, 4),
repealed

7. Sections 175 and 176 of the said Act are repealed. ss. 175, 176,
repealed

s. 178 (3),
pars. 16,
18-21
repealed

8.—(1) Paragraph 16, and paragraphs 18 to 21 as enacted by the Statutes of Ontario, 1971, chapter 26, section 28, of subsection 3 of section 178 of the said Act are repealed.

s. 178 (4),
repealed

(2) Subsection 4 of the said section 178, as enacted by the Statutes of Ontario, 1972, chapter 138, section 51, is repealed.

s. 179 (1),
amended

9.—(1) Subsection 1 of section 179 of the said Act is amended by inserting after "corporation" in the second line "to which clause *a* of subsection 1 of section 172 applies".

s. 179 (3),
amended

(2) Subsection 3 of the said section 179 is amended by inserting after "corporation" in the second line "to which either clause *a* or *b* of subsection 1 of section 172 applies".

s. 185,
re-enacted

10. Section 185 of the said Act, as amended by the Statutes of Ontario, 1971, chapter 26, section 30, is repealed and the following substituted therefor:

Interim
financial
statements
1975, c....

185.—(1) A corporation that is offering its securities to the public shall send to each shareholder a copy of an interim financial statement required to be filed under *The Securities Act, 1975* and the regulations thereunder.

Distribution
to
shareholders

(2) The interim financial statement required by subsection 1 shall be sent by prepaid mail to each shareholder, within sixty days of the date to which it is made up, at his latest address as shown on the records of the corporation.

s. 251 (2a),
amended

11. Subsection 2a of section 251 of the said Act, as enacted by the Statutes of Ontario, 1972, chapter 138, section 58, is amended by striking out "section 134 of *The Securities Act*" in the third line and in the eighth line and inserting in lieu thereof in each instance "sections 78 and 79 of *The Securities Act, 1975*".

s. 261 (2),
re-enacted

12. Subsection 2 of section 261 of the said Act is repealed and the following substituted therefor:

Idem

(2) Where it appears to the Commission that any person or corporation to which section 117 or subsection 1 of section 118 applies has failed to comply with or is contravening any such provision, the Commission may, notwithstanding the imposition of any penalty in respect of such non-compliance or contravention and in addition to any other rights it may have, apply to the court for an order,

(a) directing such person or corporation to comply with such provision or restraining such person or corporation from contravening such provision; and

- (b) directing the directors and senior officers of such person or corporation to cause such person or corporation to comply with or to cease contravening any such provision,

and upon such application, the court may make such order or such other order as the court thinks fit.

- 13.** Section 269 of the said Act is repealed and the following substituted therefor: s. 269,
re-enacted

269. Any person or corporation directly affected by a decision of the Commission under this Act may appeal to the Supreme Court and subsections 2 to 6 of section 9 of *The Securities Act, 1975* apply to the appeal. Appeal
from
Commission
1975, c....

- 14.** Clause *e* of section 271 of the said Act is repealed. s. 271 (e),
repealed
- 15.** This Act comes into force on a day to be named by proclamation of the Lieutenant Governor. Commence-
ment
- 16.** This Act may be cited as *The Business Corporations Amendment Act, 1975*. Short title

An Act to amend
The Business Corporations Act

1st Reading

May 30th, 1975

2nd Reading

3rd Reading

THE HON. S. B. HANDLEMAN
Minister of Consumer and
Commercial Relations

(Government Bill)
